ALABAMA LAWS

(and Joint Resolutions)

OF THE

LEGISLATURE OF ALABAMA

PASSED AT THE

ORGANIZATIONAL SESSION, 1995

REGULAR SESSION, 1995

VOL. 1

FOB JAMES, Governor
DON SIEGELMAN, Lieutenant Governor
MICHAEL FIGURES, President Pro-Tem of the Senate
JAMES S. CLARK, Speaker of the House
SETH HAMMETT, Speaker Pro-Tem of the House
McDOWELL LEE, Secretary of the Senate
GREG PAPPAS, Clerk of the House

WITH AN INDEX PREPARED BY THE LEGISLATIVE REFERENCE SERVICE

The undersigned, as Secretary of State of the State of Alabama, does hereby certify that this book contains bills and joint resolutions enacted at the 1995 Organizational Session and 1995 Regular Session of the Legislature of Alabama and is the official publication of such acts.

Jim Bennett
Secretary of State

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PREFACE

The year 1995 started a new quadrennium for the Alabama Legislature and a new era in Alabama politics. Citizens, with a new vigor, have asked for state government to be responsive to their voice. Publications like the *Acts of the Alabama Legislature* help meet a renewed public desire to stay informed and connected to state government.

The acts bound in this publication are more than just a compilation of the new state laws; the acts are a snapshot of the issues and values Alabama's citizens found important at this point in the state's history.

I hope you find the *Acts of the Alabama Legislature* informative.

Jim Bennett
Secretary of State

ALABAMA LAWS

And Joint Resolutions

ORGANIZATIONAL SESSION, 1995

Act No. 95-1 H.J.R. 6 – Rep. Hammett

HOUSE JOINT RESOLUTION

CREATING A LEGISLATIVE PARKING COMMITTEE

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby created a joint committee to work with the Chief of Services and Capitol Police, Department of Finance, and in assigning parking places to members of the Legislature. Said Committee shall consist of three members of the House, to be appointed by the Speaker, and three members of the Senate, to be appointed by the Presiding Officer of the Senate.

Approved January 20, 1995

Time: 9:45 A.M.

Act No. 95-2 H.J.R. 11 – Reps. Starkey, Allen, Baker, Bandy, Black (L), Black (M), Box, Boyd, Burke, Buskey, Carns, Carothers, Carter, Clark (J), Clark (W), Clouse, Collins, Crigler, Curry, Dean, Dolbare, Drake, Dukes, Flowers, Ford, Fuller, Gaines, Galliher, Gaston, Gipson, Graham, Guin, Hall (A), Hall (L), Hamilton, Hammett, Haney, Hawk, Hawkins, Hayden, Hill,

Hilliard, Hinshaw, Hogan, Holmes, Hooper, Houston, Jackson, Johnson (E), Johnson (R), Jorgensen, Kennedy, Knight (A), Knight (J), Laird, Layson, Letson, Lindsey, Maull, McAdory, McClammy, McDaniel, McKee, McMillan, Melton, Millican, Minnifield, Mitchell, Moore, Morrison, Morrow, Morton, Murphree, Newton (C), Newton (D), Page, Papucci, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Pringle, Reed, Robinson, Rogers (J), Rogers (M), Sanderford, Sanderson, Seibenhener, Sims, Smith, Spratt, Thomas (D), Thomas (J), Townsend, Turner, Turnham, Vance, Venable, Warren, White, Willis, Wren

HOUSE JOINT RESOLUTION

COMMENDING THE UNIVERSITY OF NORTH ALABAMA FOOTBALL TEAM FOR WINNING A SECOND CONSECUTIVE NATIONAL CHAMPIONSHIP.

WHEREAS, this Legislature notes with pride and admiration the second consecutive national football championship claimed by the University of North Alabama; and

WHEREAS, U.N.A. accomplished the most difficult challenge in sports: successfully defending a national championship, by defeating Texas A&M-Kingsville 16-10 in the championship game at Braly Stadium in Florence, Alabama, in front of a sell-out crowd and a national television audience on ESPN2; and

WHEREAS, the Lions are only the third school in the 22-year history of the NCAA Division II play-offs to earn back-to-back

football championships, the team possesses the best overall record in Division II over the last three years at 34-5-1, are only the second school to win 27 games in two years, carry a 27-game winning streak against Division II opponents, a 17-game winning streak at Braly Stadium, a 14-game Gulf South Conference winning streak, a 13-game winning streak against nationally ranked Division II opponents, and an eight-game play-off winning streak—startling statistics that signal this football powerhouse may be on the verge of becoming a football dynasty; and

WHEREAS, this remarkable repeat feat displays the technical and inspirational skills of Head Coach Bobby Wallace, who was named national Coach of the Year for the second straight year, the talent and tenacity of his staff, and the dedication and desire of the players; and

WHEREAS, the University of North Alabama became the first school in the history of the NCAA on any level to have claimed two national championships in both football and basketball, athletic achievements for which the students, staff, graduates, and followers of U.N.A. and indeed all citizens of this state are properly proud; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly honor and sincerely congratulate the University of North Alabama Football Team on its championship season.

BE IT FURTHER RESOLVED, That copies of this resolution be forwarded to the Administration of the University of North Alabama and Coach Wallace for appropriate presentation and school display.

Approved January 20, 1995

Time: 9:46 A.M.

Act No. 95-3 H.J.R. 16 – Rep. Newton (C)

HOUSE JOINT RESOLUTION

COMMENDING THE GREENVILLE HIGH SCHOOL TIGERS ON WINNING THE 1994 STATE 5A FOOTBALL CHAMPIONSHIP.

WHEREAS, the Alabama Legislature is greatly pleased to congratulate the Greenville High School Tigers as Alabama's 1994 State 5A Football Champions; and

WHEREAS, the Greenville Tigers were directed by the talented leadership of Head Coach Gene Allen, ably assisted by Coaches Steve Allen, Jerome Antone, Ronnie Faulk, Danny Foster, Russell McCarty, Raymond Phillips, and Tony Stonicher; and

WHEREAS, the Greenville Tigers, who were runners-up in the 1993 season and vowed to make 1994 a championship year, fulfilled the vow by defeating Homewood 28-14 in the 1994 championship game and posting a magnificent 13-1 record for the year; and

WHEREAS, under Coach Gene Allen's leadership since 1991, the Tigers have become a powerhouse in 5A football, and the teams have enjoyed support from the student body, cheerleaders, band, and countless fans; and

WHEREAS, the mighty Tigers averaged 25.5 points per game and allowed only 10.3 points per game by the opponents; outscored five play-off opponents 108 to 48; held their opponents to less than 14 points in eight games; and scored 27 points or more in eight games, while limiting their opponents to less than 14 points; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of exceptional achievement, we hereby most highly commend Coach Gene Allen, his staff, and the Greenville High School Tigers on the 1994 State Class 5A Football Championship, and direct that copies of this resolution be forwarded to principal Roger Speed for appropriate presentation and school display.

Approved January 20, 1995

Time: 9:47 A.M.

Act No. 95-4

H.J.R. 17 – Reps. Hooper, Allen, Baker, Bandy, Black (L), Black (M), Box, Boyd, Burke, Buskey, Carns, Carothers, Carter, Clark (J), Clark (W), Clouse, Collins, Crigler, Curry, Dean, Dolbare, Drake, Dukes, Flowers, Ford, Fuller, Gaines, Galliher, Gaston, Gipson, Graham, Guin, Hall (A), Hall (L), Hamilton,

Hammett, Haney, Hawk, Hawkins, Hayden, Hill, Hilliard, Hinshaw, Hogan, Holmes, Houston, Jackson, Johnson (E), Johnson (R), Jorgensen, Kennedy, Knight (A), Knight (J), Laird, Layson, Letson, Lindsey, Maull, McAdory, McClammy, McDaniel, McKee, McMillan, Melton, Millican, Minnifield, Mitchell, Moore, Morrison, Morrow, Morton, Murphree, Newton (C), Newton (D), Page, Papucci, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Pringle, Reed, Robinson, Rogers (J), Rogers (M), Sanderford, Sanderson, Seibenhener, Sims, Smith, Spratt, Starkey, Thomas (D), Thomas (J), Townsend, Turner, Turnham, Vance, Venable, Warren, White, Willis, Wren

HOUSE JOINT RESOLUTION

COMMENDING NANCY KNIGHTEN FORRESTER FOR DISTINGUISHED SERVICE TO THE ALABAMA LEGISLATURE AND TO THE STATE OF ALABAMA

WHEREAS, it is with sincere regret that the Legislature of Alabama has learned of the forthcoming retirement, February 1, 1995, of Nancy Knighten Forrester following her many years of exemplary service to the Alabama Legislature and the State of Alabama since 1977; and

WHEREAS, Nancy Knighten Forrester, a native of Montgomery, Alabama, attended Sidney Lanier High School and Rhodes College in Memphis, Tennessee, and received her B.S. degree from the University of North Carolina in Chapel Hill; and

WHEREAS, over the course of her career as the Royal Writ Writer of Legislative Reference Service, Nancy has consoled, congratulated and honored literally thousands of citizens across our state with her special style and flair, and her resolutions have come to be greatly desired and sought after by members of both the House and Senate; and

WHEREAS, the Alabama House of Representatives each year most particularly looks forward with anticipation to the presentation of the infamous Shroud Award in which she wittily, and a shade irreverently, conveys last rites to the deadest legislation of the session while commiserating with its surviving sponsor; and

WHEREAS, over the years, Nancy's commitment to excellence; tireless dedication to the task at hand; her wisdom and keen wit; and, of course, her unparalleled skill and unique talent with the written word have earned the highest regard and admiration of legislators, associates and co-workers alike; and she will be greatly missed; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply indebted to Nancy Knighten Forrester and convey our deepest gratitude and appreciation for her many years of extraordinary and devoted service to Legislative Reference Service and the State of Alabama.

RESOLVED FURTHER, That we wish Nancy and her husband, and our friend, Tharpe Forrester, health, happiness, and many pleasurable hours shared with their family and the world's greatest grandchildren, Katie and Will; and it is further directed that she receive a copy of this resolution as an expression of our appreciation, friendship and highest personal regard.

Approved January 20, 1995

Time: 9:48 A.M.

Act No. 95-5 H.J.R. 2 – Rep. Hammett

HOUSE JOINT RESOLUTION

COMMITTEE APPOINTED TO NOTIFY GOVERNOR LEGISLATURE IS IN SESSION

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That a committee of

six, consisting of three members of the Senate to be appointed by the presiding officer of the Senate, and three members on the part of the House to be appointed by the Speaker, be appointed to notify the Governor of Alabama that the Legislature is now in session and is ready for the transaction of business.

Approved January 20, 1995

Time: 9:49 A.M.

Act No. 95-6

H.J.R. 3 – Reps. Hammett, Allen, Baker, Bandy, Black (L), Black (M), Box, Boyd, Burke, Buskey, Carns, Carothers, Carter, Clark (J), Clark (W), Clouse, Collins, Crigler, Curry, Dean, Dolbare, Drake, Dukes, Flowers, Ford, Fuller, Gaines, Galliher, Gaston, Gipson, Graham, Guin, Hall (A), Hall (L), Hamilton, Haney, Hawk, Hawkins, Hayden, Hill, Hilliard, Hinshaw, Hogan, Holmes, Hooper, Houston, Jackson, Johnson (E), Johnson (R), Jorgensen, Kennedy, Knight (A), Knight (J), Laird, Layson, Letson, Lindsey, Maull, McAdory, McClammy, McDaniel, McKee, McMillan, Melton, Millican, Minnifield, Mitchell, Moore, Morrison, Morrow, Morton, Murphree, Newton (C), Newton (D), Page, Papucci, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Pringle, Reed, Robinson, Rogers (J), Rogers (M), Sanderford, Sanderson, Seibenhener, Sims, Smith, Spratt,

Starkey, Thomas (D), Thomas (J), Townsend, Turner, Turnham, Vance, Venable, Warren, White, Willis, Wren

HOUSE JOINT RESOLUTION

COMMENDING JAMES M. CAMPBELL OF ANNISTON, ALABAMA.

WHEREAS, it is with highest commendation that the Legislature of Alabama recognizes James M. (Jim) Campbell of Anniston for outstanding service to the State of Alabama as a member of the House of Representatives for sixteen years and, through election by his peers, as House Speaker Pro Tem for the past eight years; and

WHEREAS, an attorney in private practice, Mr. Campbell is a native of Calhoun County who was educated in the Anniston City Schools, and attended Emory University and the Emory University School of Law where he received both his undergraduate and law degrees in 1964 and 1966, respectively; and

WHEREAS, Jim Campbell was first elected to the Alabama House of Representatives in 1978, and was subsequently reelected by the constituents of House District 36 to three consecutive four-year terms, during which tenure he provided outstanding leadership in a number of key committee assignments, including Judiciary (Chairman, 1983-1986), Rules, Education, the Standing Committee on Reapportionment (Vice-Chairman) and Banking (Vice-Chairman, 1983), among others; and

WHEREAS, he further has served most ably as chairman of the Legislative Council and as President of the Alabama Law Institute and is the sponsor of such significant legislation as the Administrative Procedures Act, Eminent Scholars Act, Regional Reciprocal Interstate Banking Act, and the Fair Campaign Practices Act, as well as other meaningful legislation to the benefit of the people of Alabama; and

WHEREAS, Representative Campbell, in addition to his many years of positive impact upon state government, has also provided consummate leadership and support to his profession and the community as a member and/or officer of the American Bar Association; the Alabama State Bar and its Practice and Procedures Section; the Calhoun County Bar Association; the Board of Bar Commissioners of the Alabama State Bar, and its

Executive Committee; and to the Anniston City Board of Education, the First United Methodist Church of Anniston, and the Calhoun County Chamber of Commerce, to name but a few of his many civic and professional affiliations; and

WHEREAS, through continuous perseverance in the service of the people, and with faithful adherence to the public trust, Jim Campbell has indeed well-served his state and community, thereby earning the gratitude of all those he has served so diligently, as well as the admiration and respect of those of us with whom he served over the course of his distinguished career; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in highest praise of the many notable contributions and accomplishments of his legislative tenure, and in public acknowledgement of his judicious leadership as Speaker Pro Tem of the Alabama House of Representatives, we hereby commend James M. Campbell of Anniston, Alabama, for whom a copy of this resolution of warmest personal regard shall be provided.

Approved January 20, 1995

Time: 9:50 A.M.

Act No. 95-7 H.J.R. 4 – Rep. Hammett

HOUSE JOINT RESOLUTION

BINDING OF ACTS AND JOURNALS

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the acts and journals of this organizational session be bound with the regular session or any special sessions in 1995.

Approved January 20, 1995

Time: 9:51 A.M.

Act No. 95-8 H.J.R. 7 – Rep. Hammett

HOUSE JOINT RESOLUTION

RELATIVE TO MEETING DAYS

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That when the two

houses adjourn today, Tuesday, January 10, 1995, they adjourn to meet again on Wednesday, January 11, 1995, and when they adjourn on Wednesday they adjourn to meet again on Tuesday, January 17, 1995.

Approved January 20, 1995

Time: 9:52 A.M.

Act No. 95-9 H.J.R. 8 – Rep. Hammett

HOUSE JOINT RESOLUTION

RELATIVE TO JOINT SESSION.

BE IT RESOLVED that the House of Representatives and Senate meet in joint convention in the Hall of the House of Representatives at 10:30 a.m. January 11, 1995, for the purpose of witnessing the opening and publishing of the returns of the election of executive officers of the State of Alabama at the general election held on November 8, 1994, as required by the Section 115 of the Constitution of Alabama.

Approved January 20, 1995

Time: 9:53 A.M.

Act No. 95-10 S.J.R. 2 – Senator Freeman

SENATE JOINT RESOLUTION

COMMENDING ROBIN BUTLER OF MADISON, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, in extending heartiest congratulations to Robin Butler of Madison, Alabama, on her recent high school graduation, the Alabama Legislature also notes her many outstanding accomplishments as a student achiever at Bob Jones High School; and

WHEREAS, Miss Butler, who served as Vice President of her Freshman and Sophomore classes, was a member and 1992-93 Vice President of the Student Council; a member of the National Honor Society; a 4-year member of the Bob Jones PRIDE academic club; and a 4-year member and 1993-94 Captain of the Patriettes Dance Team; and

WHEREAS, she further was elected by her peers to serve in the Homecoming Court, is the recipient of the 1994 DAR Good Citizen Award, and is a member of the Fellowship of Christian Students, Fellowship of Christian Athletes, and Young Life; and

WHEREAS, Miss Butler, moreover, is an active member of University Baptist Church in Huntsville where she is a nursery volunteer and a member of the Acteen youth group, the Youth Council, and the Search Committee; and

WHEREAS, the culmination of Robin Butler's accomplished high school career was her selection as the recipient of a 4-year Leadership Scholarship from Samford University in Birmingham, a 4-year scholarship from Humana Insurance, a Madison County Junior Miss scholarship, and an Alabama Southern Baptist grant; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement in academics, leadership, community service, and citizenship, we hereby commend and congratulate Miss Robin Butler of Madison, Alabama, whom we hold in highest personal regard, and for whom a copy of this resolution shall be provided, with sincere best wishes for every future happiness and success in life.

Approved January 20, 1995

Time: 9:58 A.M.

Act No. 95-11

S.J.R. 3 – Senators Little, Dial, Adams, Amari, Bailey, Barron, Bedsole, Bolling, Campbell, Corbett, deGraffenried, Denton, Dixon, Ellis, Escott-Russell, Figures, Floyd, Foshee, Ghee, Hale, Hill, Horn, Langford, Lindsey, Lipscomb, Mitchell, Mitchem, Owens, Parsons, Sanders, B. Smith, J. Smith, Underwood, Waggoner, Wilson and Windom

SENATE JOINT RESOLUTION

RECOGNIZING STATE REPRESENTATIVE PETE TURNHAM OF AUBURN, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, it is with highest commendation and sincere pride that recognition is herein extended to Alabama State Representative Pete Turnham of Auburn, Alabama, as the recent recipient of an honorary degree from Auburn University; and

WHEREAS, Representative Turnham, a native of Chambers County, earned both bachelor and master's degrees from Auburn and served on the staff for more than five years before beginning his tenure in the Legislature in 1958; and

WHEREAS, as a member of the Alabama House of Representatives for the past 36 years, Representative Turnham, the Dean of the House, has worked tirelessly and diligently on behalf of Auburn University and public education, as well as other issues of vital interest and concern to our state; and

WHEREAS, recently elected to his 10th term in the House, he has sponsored and supported significant legislation to ensure the future growth and prosperity of Auburn, and of his many successes was the funding for Haley Center and the Coliseum at Auburn; and

WHEREAS, he has also sponsored many other education-related bills over his career including the largest single bond issue in Alabama history, providing for new and improved school facilities throughout the state; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That as Auburn University's 130th honorary degree recipient, we hereby most highly commend our friend and colleague, Representative Pete Turnham of Auburn, Alabama, for whom a copy of this resolution shall be provided as an expression of our tribute and esteem.

Approved January 20, 1995

Time: 9:59 A.M.

Act No. 95-12 S.J.R. 4 – Senator Little

SENATE JOINT RESOLUTION

HONORING THOMAS D. SAMFORD III, ON THE OCCASION OF HIS RETIREMENT.

WHEREAS, it is with highest commendation that the Legislature of Alabama recognizes Thomas D. Samford III, who is retiring, effective June 30, 1995, following 33 years of distinguished service to Auburn University, and

WHEREAS, Thomas Samford has served as Auburn University's primary attorney since 1961 and as a member of the central administration since 1988, and, over his dedicated tenure, has provided sound legal advice to six Auburn presidents and the Auburn University Board of Trustees; and

WHEREAS, a native of Opelika, Alabama, and a veteran of the United States Marine Corps and Marine Corps Reserve, Mr. Samford graduated from Princeton University and earned his law degree from the University of Alabama; and

WHEREAS, Mr. Samford engaged in the practice of law in Opelika, Alabama from 1961-76, serving as legal counsel to and as a member of the boards of directors of Diversified Products Corporation, Perfection Plastics and Data Technology Corporation; he also served as municipal judge of the City of Opelika from 1961 until he joined the university full time in 1988; and

WHEREAS, Mr. Samford has been equally committed in service to his community, providing leadership and support to such organizations as the Opelika Kiwanis Club, Chamber of Commerce, United Way, Community Chest, and to Trinity United Methodist Church, and, in tribute to his contributions, was awarded the Kiwanis International Legion of Honor in 1986 and was selected Alabama Jaycees Outstanding Young Man of Alabama in 1967; and

WHEREAS, Mr. Samford and his devoted and supportive wife, Jacqueline, are the proud parents of four beautiful children; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding service to Auburn University, we hereby most highly commend Thomas D. Samford III, and direct that he receive a copy of this resolution as a token of our esteem and best wishes for every future happiness and success.

Approved January 20, 1995

Time: 10:00 A.M.

Act No. 95-13

S.J.R. 5 – Senators Dixon, Adams, Amari, Armistead, Bailey,

Barron, Bedford, Biddle, Butler, Clay, Davidson, Denton, Dial, Escott- Russell, Figures, Freeman, Ghee, Hale, Hill, Langford, Lindsey, Lipscomb, Little, McClain, Mitchell, Mitchem, Myers, Poole, Roberts, Sanders, Smith, Smitherman, Steele, Waggoner, and Windom

SENATE JOINT RESOLUTION

COMMENDING NANCY KNIGHTEN FORRESTER FOR DISTINGUISHED SERVICE TO THE STATE OF ALABAMA.

WHEREAS, it is with sincere regret that the Legislature of Alabama has learned of the forthcoming retirement, February 1, 1995, of Nancy Knighten Forrester following her many years of exemplary service to the Alabama Legislature and the State of Alabama since 1977; and

WHEREAS, Nancy Knighten Forrester, a native of Montgomery, Alabama, attended Sidney Lanier High School and Rhodes College in Memphis, Tennessee, and received her B.S. degree from the University of North Carolina in Chapel Hill; and

WHEREAS, over the course of her career as the Royal Writ Writer of Legislative Reference Service, Nancy has consoled, congratulated and honored literally thousands of citizens across our state with her special style and flair, and her resolutions have come to be greatly desired and sought after by members of both the House and Senate; and

WHEREAS, the Alabama House of Representatives each year most particularly looks forward with anticipation to the presentation of the infamous Shroud Award in which she wittily, and a shade irreverently, conveys last rites to the deadest legislation of the session while commiserating with its surviving sponsor; and

WHEREAS, over the years, Nancy's commitment to excellence; tireless dedication to the task at hand; her wisdom and keen wit; and, of course, her unparalleled skill and unique talent with the written word have earned the highest regard and admiration of legislators, associates and co-workers alike; and she will be greatly missed; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply indebted to Nancy Knighten Forrester and convey our deepest gratitude and appreciation for her many years of extraordinary and devoted service to Legislative Reference Service and the State of Alabama.

RESOLVED FURTHER, That we wish Nancy and her husband, and our friend, Tharpe Forrester, health, happiness, and many pleasurable hours shared with their family and the world's greatest grandchildren, Katie and Will; and it is further directed that she receive a copy of this resolution as an expression of our appreciation, friendship and highest personal regard.

Approved January 20, 1995

Time: 10:01 A.M.

Act No. 95-14 S.J.R. 6 – Senator Dial

SENATE JOINT RESOLUTION

CONGRATULATING THE ASHLAND HIGH SCHOOL PANTHERS ON THE 1994 STATE CLASS 2-A FOOTBALL CHAMPIONSHIP.

WHEREAS, it is with great pleasure and pride that the Alabama Legislature herein extends heartiest congratulations to the Ashland High School Panthers as Alabama's 1994 State Class 2-A Champions; and

WHEREAS, on December 9, 1994, in a dazzling exhibition by both offense and defense, the Ashland Panthers, under the skillful leadership of Coach Danny Horn, decidedly defeated the Gordo Green Wave 24-0 to capture the coveted title and crown; and

WHEREAS, the Ashland Panthers achieved an impressive 14-1 overall record, losing only to Class 4-A runner-up Heflin (3-0), anchored by a defiant defense that gave up only 22 points the entire season while setting an all time state record with 10 shutouts; and

WHEREAS, the Ashland High School 2-A Champions have indeed brought great honor to themselves, their school and community, and are indeed deserving of highest praise for their dedicated efforts and contributions; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, we hereby most highly commend Ashland High School as Alabama's State Class 2-A Football

Champions, and it is further directed that a copy of this resolution be prepared for appropriate presentation and school display.

Approved January 20, 1995

Time 10:02 A.M.

Act No. 95-15 H.J.R. 19 – Rep. Carns

HOUSE JOINT RESOLUTION

RECOGNIZING MRS. LINDA MENDEL OF MOUNTAIN BROOK, ALABAMA.

WHEREAS, it is with special tribute that Mrs. Linda Mendel of Mountain Brook is recognized for her many years of dedicated service to the Mountain Brook School System and to Alabama's youth; and

WHEREAS, for the past nineteen years, Linda Mendel, a parent of school age children, has given generously and unselfishly of her time and energy as a full-time volunteer for the Mountain Brook educational system; and

WHEREAS, Linda Mendel has served in many capacities and positions since she began as a volunteer at Cherokee Bend Elementary School close to twenty years ago; she has acted as chaperone; transported students to and from out-of-town events; and worked in the office, library, classroom, or wherever she was needed; and

WHEREAS, also, realizing a need to recognize students who might not otherwise be noticed or remembered, she took up photography as a hobby and began taking photographs of students as they participated in various activities associated with elementary, junior high and senior high school events and giving them to the students or their parents; and

WHEREAS, yet in another act of generosity, Mrs. Mendel holds open house during Christmas for all the active workers, teachers, students and parents in the area; and

WHEREAS, Linda Mendel is indeed deserving of public recognition for her contributions as a volunteer with the Mountain Brook School System and for her many personal efforts and endeavors on behalf of its students, which are immeasurable; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That highest commendation is hereby accorded Mrs. Linda Mendel of Mountain Brook, Alabama, for whom a copy of this resolution shall be provided as an expression of sincere tribute and esteem.

Approved January 20, 1995

Time: 9:54 A.M.

Act No. 95-16 H.J.R. 24 – Reps. Hill, Knight (A)

HOUSE JOINT RESOLUTION

COMMENDING FRANK CORLEY ELLIS, JR., OF COLUMBIANA, ALABAMA, FOR DISTINGUISHED SERVICE TO THE STATE OF ALABAMA.

WHEREAS, as a member of the Alabama Senate for the past 12 years since 1982, Frank Corley "Butch" Ellis, Jr., of Columbiana has rendered invaluable service to the Legislature in the best interests of his constituents and to the common good and well-being of all Alabamians; and

WHEREAS, over the course of his distinguished tenure, Butch Ellis most ably served numerous standing committee assignments, including Chairmanship of the Senate Judiciary/Criminal Justice Committee, Agriculture, Conservation and Forestry Committee, and Fish and Game Sub-Committee, and as Senate Floor Leader for Governor Guy Hunt, among others; and

WHEREAS, Butch Ellis, engaged in the private practice of law since 1964, has also served as County Attorney of the Shelby County Commission for thirty years; as City Attorney for the Cities of Pelham, Helena, and Wilton; and as General Counsel for Shelby Medical Center, as well; and

WHEREAS, he has further provided immeasurable leadership and support to countless civic, service, and professional organizations in such capacities as Chairman of the University of Montevallo Board of Trustees, a member of the Rotary Club, American Bar Association, Alabama Bar Association, and as a member and past President of the Shelby County Bar Association; and

WHEREAS, Butch Ellis and his devoted wife, Diane, are the proud parents of three children, Kelly Ellis Mooney, Christy Lynn Ellis, and Frank Corley Ellis, III, and the grandparents of a very special grandson, Clint; and

WHEREAS, Butch Ellis is indeed one of Alabama's most distinguished public servants, whose leadership and accomplishments have earned the highest regard of his friends and colleagues, and most particularly of the Shelby County Legislative Delegation; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in grateful acknowledgement of outstanding leadership and service to the Alabama Legislature and the state, we hereby most highly commend Frank Corley "Butch" Ellis, Jr., for whom a copy of this resolution of sincere tribute and esteem shall be provided.

Approved January 20, 1995

Time: 9:55 A.M.

Act No. 95-17 H.J.R. 26 – Rep. Gipson

HOUSE JOINT RESOLUTION

COMMENDING FRED JENSEN AS OUTSTANDING COACH OF FORMER AUTAUGA COUNTY HIGH SCHOOL.

WHEREAS, the Alabama Legislature with highest commendation and heartiest congratulations notes the Stanley-Jensen Stadium dedication on December 11, 1994, in Prattville, Alabama, that recognized the outstanding accomplishments of Fred Jensen who coached at the former Autauga County High School, from 1946 until 1957; and

WHEREAS, Coach Jensen compiled an outstanding record of 63 wins, 38 losses, and 7 ties during his career at Autauga High School that included the school's historic streak of 22 consecutive wins and two consecutive undefeated teams—a record not to be equaled since Coach Jensen's spectacular feat in 1950; and

WHEREAS, Fred Jensen, a native of Grove Hill and a graduate of Clarke County High School, attended Birmingham-Southern College on a football scholarship, was held in high esteem by his players over the years because of his devotion to them and astute leadership; and

WHEREAS, in addition to the enviable record of 22 consecutive wins in football, Coach Jensen also coached the "Prattville Lions" baseball and basketball teams, and the community, because

of their high admiration for him, designated the Stanley-Jensen Stadium in his honor; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily commend Fred Jensen on his distinctive leadership and record at former Autauga County High School and, as a token of our high regard for him, direct that he be provided with a copy of this resolution.

Approved January 20, 1995

Time: 9:56 A.M.

Act No. 95-18 H.J.R. 9 – Rep. Hammett

HOUSE JOINT RESOLUTION

ADOPTING JOINT RULES OF THE TWO HOUSES OF THE LEGISLATURE OF ALABAMA FOR 1995.

JOINT RULES

OF THE TWO HOUSES OF THE LEGISLATURE OF

ALABAMA

1. Messages from one house to the other shall take precedence over all other questions.

2. When House and Senate bills are signed by the presiding officer of the House or Senate, the Clerk or Secretary, as the case may be, shall notify the other house and request the signature of the presiding officer to the same, and as soon as the message is read, the presiding officer shall immediately sign the bills in the presence of the House or Senate, as prescribed by the Constitution.

3. No local or special bill shall be introduced into either house unless the member who introduces it disclosed at the time the fact that the notice required by the Constitution and laws has been given, and submits one copy of the notice and proof thereof attached to the bill.

4. No bill amending a section or part of the Code by reference to the section or other subdivision of the Code shall be introduced into either house unless the title thereof contains a brief statement

of the general subject, independent of references to the Code section, to which such section or subsection relates.

5. The Secretary or the Clerk, as the case may be, shall, when a bill is duly enrolled and signed by the presiding officers of both houses, deliver the bill to the Governor noting thereon the day and hour and minute of delivery, and he shall make a written report to the house where the bill originated showing the number of the bill and time of delivery, which shall be spread upon the Journal.

6. All official printed legislative documents placed in the custody of the Clerk of the House and the Secretary of the Senate shall be assigned a number by the Secretary or the Clerk and the number, year and the session shall clearly appear on the title page of the document.

7. The draft of any bill which is for introduction at any session of the Legislature, and which is not prepared by the Legislative Reference Service, the Legislative Fiscal Office, or the Executive Budget Office, shall be presented to the Legislative Reference Service for review, preparation of a synopsis, and entry into the Legislative Data Bank at least two days prior to introduction.

8. The privileges of the floor of both houses are accorded the Directors and employees of the Department of Archives and History, the Legislative Reference Service, and the Legislative Fiscal Office.

In aid of the reference work required by law to be done for members of the Legislature, the privileges of the floor of both houses are accorded the Director of the Alabama Law Institute and the Chief Examiner of the Department of Examiners of Public Accounts when requested by a member.

9. The presiding officer of the Senate shall preside when the two Houses meet in joint sessions.

10. During the period between the end of a regular session and the convening of the next regular session, except for the period between the end of the last regular session in the quadrennium and the general election, members may deliver bills to the Clerk or Secretary. This shall be known as "prefiling." Such bills shall be numbered by the Clerk or Secretary in the order of receipt and otherwise processed for introduction when the regular session has been convened. Prefiled bills shall be assigned by the presiding officer to a standing committee for study and shall be formally referred to the same committee upon commencement of the regular session.

11. Resolutions of sympathy, commendation or congratulations shall be by House resolution or by Senate resolution and shall be filed with the Secretary of the Senate or the Clerk of the House who shall cause the respective journals to reflect that such resolution was filed by inserting the title thereof in their respective journals; the Secretary or the Clerk, respectively, shall prepare appropriate copies for distribution; provided, however, by suspension of the rules such resolutions shall be made a part of the journals.

12. (a) No bill amending an existing statute shall be accepted for introduction in the Legislature unless:

(1) the language to be deleted is stricken through (example: ~~stricken through~~ and (2) the language to be inserted is underscored (example: underscored).

(b) All amendments to bills shall refer to the line or lines to be amended by number and shall strike out the language to be deleted and underline the new language.

(c) No bill shall be accepted by the Secretary of the Senate or Clerk of the House for introduction in either House unless it is a legible copy, typed on 8 1/2" by 11" paper with numbered lines which are double-spaced.

(d) All bills or resolutions that have been amended in the House of origin shall be engrossed by that House prior to being delivered to the other House.

(e) No resolution, as provided for in Section C of Section 1 of Act No. 81-889 may be introduced until the bill described in the resolution appears on the regular calendar of the house in which the resolution is offered.

Further provided that such resolution shall have been prepared by the Legislative Reference Service or the office of the Clerk of the House or the Secretary of the Senate.

13. All bills, except local bills, introduced in the House and Senate shall have printed at the top of the bill a brief synopsis of the contents.

14. Every bill making an appropriation, except the General Appropriations Bill and the Education Appropriation Bill, shall clearly stipulate in the bill's title the amount and the source from which the appropriation is to be made.

15. Any bill that proposes an amendment to the Constitution of the State of Alabama shall include in the text of the bill specific language that shall appear on the ballot if the bill is passed by the Legislature.

16. All members of the House and Senate, the press corps, employees of the two houses and any guests or visitors on the floors of the State House used by the Legislative Branch, are prohibited from carrying a firearm or any other thing that might be construed to be a lethal weapon. This rule will not apply to employees of the two houses who are security officers nor to members of the State Troopers who are in their official capacities.

RULES RELATING TO COMMITTEES

17. A Committee on Conference to reconcile the difference on pending legislation between the two houses of the Alabama Legislature shall consist of six members, three of whom shall be members of the House, appointed by the Speaker thereof, and three from the Senate to be appointed by the President of the Senate.

Notice of meetings of Committees on Conference shall be posted at least one hour prior to the meeting in the same manner as the posting of notice of standing committee meetings.

Provided, however, that on the 12th legislative day of any special session or on the 30th day of any regular session the provisions of this rule shall be satisfied if the meeting time and place of a Conference Committee is announced publically by the presiding officer of each house.

The Committee on Conference shall not report unless there be an affirmative vote of at least four members which must consist of at least two votes by the conferees from each house. The report of the Committee on Conference shall be attached to the pending legislation and returned to the house of origin for such action as that house may deem appropriate. The house of origin may take one of the following courses of action:

a. They may concur in the Committee on Conference report and, in the event of this action, the bill and the Conference Committee report shall be sent to the other house for action.

b. The house of origin may reject the Conference Committee report, in which case the pending legislation is automatically void.

c. The house of origin may reject the report of the Committee on Conference and request that a new committee be appointed by the respective presiding officers.

In the event the house of origin adopts the Committee on Conference report, the pending legislation together with the report of the Committee on Conference, shall be submitted to the other house for action in the same manner as in the house of origin.

In the event the minority wishes to submit a report, the house of origin shall first consider the majority report.

In the event of a majority report rejection, the minority report may be considered and, if concurred in by the house of origin, the same shall be presented to the other house for action by that house.

The Committee of Conferees shall report substantially as follows:

We, the Committee of Conferees appointed to reconcile the difference between the two Houses concerning House Bill/Senate Bill _____ have met, considered the matter, and agreed to the following:

(Example: Substitute for H.B./S.B _____ is attached).

(Example: Amend H.B./S.B. _____ as follows:)

_____
Name

_____
Name

_____
Name

CONFEREES OF THE HOUSE

_____
Name

_____
Name

_____
Name

CONFEREES OF THE SENATE

18. The Legislative Fiscal Office shall prepare and provide to all members of the Legislature a report of all changes (word and number) in a Conference Committee report on any appropriation bill from the bill as passed in the respective house of the Legislature.

19. All amendments or revisions to redistricting plans, following introduction as a bill, shall be drafted by the Reapportionment Office.

20. Drafts of all redistricting plans which are for introduction at any session of the Legislature, and which are not prepared by the Reapportionment Office, must be presented to the

Reapportionment Office for review of proper form and for entry into the Legislative Data Bank at least ten (10) days prior to introduction.

21. The House and Senate shall recess for a minimum of one week after the second legislative day of each regular session for the purpose of joint hearings of the House Ways and Means Committee, the Senate Committee on Finance and Taxation General Fund, the Senate Committee on Finance and Taxation Education, and the Senate Committee on Fiscal Responsibility and Accountability on the proposed budgets.

Budget information will be available for every member of the Legislature whether he is a member of the above stated committees or not.

RULES RELATING TO LOBBYING

22. Those Required to Register. All persons, except members of the Alabama Legislature, who seek to encourage the passage, defeat or modification of any legislation in either House of the Legislature or before its committees shall, before engaging in such activities, register with the Secretary of the Senate and the Clerk of the House, respectively. Every registrant, in accordance herewith, shall also be required to state the extent of any direct business association or partnership with any current member of the Legislature. This rule includes all persons representing any segment of municipal, county, state or federal government, or municipal, county, state, or federal government employees, and employees of newspapers, magazines, or journals, that are compensated by any person, firm, corporations, or associations other than the news media by which they are employed.

23. Method of Registration. Each calendar year every such person shall register on forms prepared by the Secretary and Clerk, respectively, and shall state his name and business address, the name and business address of his principal or principals, the general and specific areas of his legislative interest, and the duration of his agency.

No registered lobbyist shall be permitted upon the floor of either house while it is in session, except as otherwise provided. No registered lobbyist shall circulate a cloture petition.

24. Registration Exception. Any person who, on an isolated basis and without intent to continue beyond a single day during a session of the Alabama Legislature, merely appears before a committee or committees in his individual capacity, or on behalf of a

corporation, partnership or other business entity, with which such person is regularly associated as an employee, officer or partner without receiving additional salary or compensation, other than reasonable and ordinary travel expense, to express support of or opposition to any legislation, and who shall so declare to the members of any committee, or to the committee as a whole, with whom he discusses any proposed legislation, shall not be required to register as a lobbyist.

25. Obligations of Lobbyist. A lobbyist shall supply facts, information, and opinions of principals to legislators from the point of view from which he openly declares. A lobbyist shall not offer or propose anything to improperly influence the official act, decision, or vote of a legislator.

A lobbyist, by personal example and admonition to colleagues, shall uphold the honor of the legislative process by the integrity of his relationship with legislators.

A lobbyist shall not knowingly and willfully falsify a material fact or make any false, fictitious, or fraudulent statement or representation or make or use any writing or document knowing the same contains any false, fictitious, or fraudulent statements or entry.

26. Rules Committee Advisory Opinions. A lobbyist, when in doubt about the applicability and interpretation of this rule in a particular context, may submit in writing a statement of the facts involved to the Joint Committee on Rules and may appear in person before said committee.

27. Penalties for Violations. Separately from any prosecutions or penalties otherwise provided by law, any person determined to have violated the requirements of these rules shall be censured, reprimanded, placed on probation or prohibited from lobbying for the duration of the session and from appearing before any committee of the Legislature. Said determination shall be made by a majority of the respective House upon recommendation of the Joint Committee on Rules. The Joint Committee on Rules, before making said recommendation, shall conduct a hearing, after notifying the person alleged to have violated this rule and granting such person an opportunity to appear at the hearing.

28. Secretary to Provide Forms. The Secretary of the Senate or the Clerk of the House shall provide blank affidavits for the convenience of registrants but the burden of compliance nevertheless always shall be upon the person required to register.

29. Committees to be Diligent. Committees shall be diligent to ascertain whether those who appear before them in other than an obviously individual capacity have conformed with the requirements of this rule, and to report violations. No committeeman knowingly shall permit an unregistered lobbyist to be heard.

Approved January 20, 1995

Time: 9:57 A.M.

ALABAMA LAWS

And Joint Resolutions

REGULAR SESSION, 1995

GOVERNOR JAMES'

"STATE OF THE STATE" SPEECH

APRIL 18, 1995

Mr. Speaker...Gov. Siegelman...members of the Alabama Supreme Court...distinguished guests...Ladies and gentlemen...on behalf of the executive branch of government...I welcome you to this beautiful Capitol. And to each senator and representative I especially welcome you back to this historic place that carries with it profound responsibilities.

I'm delighted you are here—frankly...it's been lonely without you. I have had the news media all to myself and now I look forward to sharing them with you.

As I look across this chamber I see many old friends—men and women I served with in a term that ended 12 years ago.

In the House...I served with 1) Seth Hammett, now speaker pro tem. 2) Joe Carrothers. 3) Tommy Carter. 4) Joe Ford. 5) Albert Hall. 6) Alvin Holmes. 7) Yvonne Kennedy. 8) Richard Laird. 9) Sam Letson. 10) Bob McKee. 11) Arthur Payne. 12) Walter Penry. 13) Thomas Reed. 14) Curtis Smith. 15) Nelson Starkey. 16) J.E. Turner. 17) Pete Turnham. 18) Jack Venable. 19) James Warren. 20) Gerald Willis.

In the Senate I served with 1) Michael Figures, now president pro tem. 2) Wendell Mitchell, now Senate floor leader. 3) John Amari. 4) Chip Bailey. 5) Jack Biddle. 6) Bobby Denton. 7) Gerald Dial. 8) Larry Dixon. 9) Sundra Escott-Russell. 10) Charles Langford. 11) Ted Little. 12) Hinton Mitchem. 13) Tommy Ed Roberts. 14) Jabo Waggoner, who by virtue of fatherhood has become famous as son Jay...first baseman for the Auburn baseball team...just broke the all-time SEC record for most base hits. Congratulations...Senator!

It was my pleasure to work with Gov. Siegelman as Secretary of State. This time around...our working-relationship continues stronger than ever.

Now...Speaker Clark...young fellow that he is...came to Montgomery after I left—For the second-half of his 23-year tenure in the Legislature. We jointly have 27 years of "on the job training." The Speaker holding 85 percent of those years and my holding 15 percent. It goes without saying I look forward to working with Speaker Clark and will rely heavily on his experience and leadership.

I appreciate your opening of all committee meetings to the public and scheduling two weeks of budget hearings before the third legislative day!

I'm proud of the Chairman of the Ways and Means Committee...Bill Fuller...who will place the Ten Commandments in the State House...and for his excellent suggestion that we put a safety factor of one percent in the Alabama Special Educational Trust Fund to protect it from proration. Rep. Fuller and I were born and raised in Chambers County...where thrift and the Commandments were duly taught.

I appreciate Rep. Alvin Holmes' long-standing support of my efforts to reduce the costs of government. In my first term Rep. Holmes was a strong advocate of cutting the governor's pay. In my second term...my good friend advocates the governor pay rent for living in the mansion. I am pleased to report that my budget reflects a 15 percent cut in the Governor's Office...the Executive Mansion....the Contingency Fund...and the office of the Finance Director. It is good to know I can always count on Rep. Holmes to lead the charge for fiscal restraint and responsibility.

We have 127 school systems in Alabama. Forty-three systems...one-third of the total...exceed the national average on nationally normed Stanford Achievement Tests given in grades four and eight.

Many other systems are improving. We need to commend them for a job well-done and urge them to continue. However...in some systems students did not score well at all. Those students need our help now!

First...Alabama law already gives the state superintendent of education authority to remedy defects that cause a school system to fail.

However...not once in more than 12 years has any direct action been taken to identify and remedy the defects of a failing school system. I have long concluded there is a management problem at the state level.

We are charged tonight with a genuine "sense of urgency" to rescue thousands of students who will depart their schools with

less than eighth-grade learning abilities and/or suffer the tragedy of functional illiteracy.

We have begun by expanding the use of Stanford Achievement Tests from testing grades four and eight to testing grades three to 11. The results should serve as a benchmark from which to measure progress and establish academic accountability.

I commend the state school board members...Dr. Thomas Ingram and state Department of Education staff and especially all teachers...counselors...and principals for giving the tests on such short notice. I know it wasn't easy...but your effort enables us improve schools in September of 1995 instead of September of 1996.

The seven fundamentals of a good school are well-known and time-tested.

1) Reestablish teacher' s authority in the classroom by the use of corporal punishment...expulsions or other acceptable means of discipline.

2) Establish a core curriculum in academics that requires basic subject matter courses such as arithmetic...reading...geography...English...history...math and science.

3) Implement a grading system that accurately measures a student's knowledge of a given subject and reports progress to parents on a report card.

4) Test new teachers by a nationally-normed teachers exam before certification. Remove or retrain teachers who do not perform at satisfactory levels.

5) Hold superintendents and principals accountable for measured improvement in SAT scores using 1995 test scores as a benchmark. Replace management that shows no progress after two full years of intensive guidance and support.

6) Provide full-protection for teachers to control students' behavior, and to protect teachers from harassment and lawsuits from government agencies...individuals or other parties.

7) Adopt a Foundation Program for funding and operations of local schools that meets Southern Association of Colleges and Schools accreditation standards for classroom size...libraries and personnel.

The seven fundamentals I have enumerated are inseparable. One will not stand without the others.

This plan must be implemented by the State Superintendent and State Board of Education. I believe it will. We should not have

to micro-manage the execution of education policy. However... I have provided you with a comprehensive plan for K-12 funding and with the academic vital statistics that should enable you to thoroughly examine needs as related to performance and costs in your home districts.

I ask you to approve this plan...and if it is not fully implemented by September of 1996...I ask you for full authority to personally execute the education plan that you approve this session.

Now for the easy part. I would like to ensure that our schoolchildren travel and attend school in a safe...sound and sanitary environment. Therefore...I propose a 150-Million dollar bond issue that meets critical needs for K-12. My proposal is designed to eliminate the conditions which are unsafe...unsanitary and which endanger the personal well-being of our students. Given current financial conditions we can afford no more at this time. All projects must meet the critical needs described in order to qualify.

Our goal is clear. We must provide the opportunity for every student in Alabama public schools to achieve academic excellence according to his or her ability and desire to do so.

Tonight I ask you to "help me help the children." We all want two things 1) Schools where our children are safe and 2) schools where our children achieve to the highest levels of their ability.

I desperately want Alabama schoolchildren literate and prepared to face a more difficult and competitive world than we knew. I have long maintained that money is no panacea for educational problems.

I believe it is a matter of will to make Alabama' s schools the best in the nation.

To those representing Alabama universities and junior colleges...hear me out. Join us. Your support...your leadership and more than 30 schools of education are essential to the welfare of our children.

Our K-12 programs are in crisis. We lose one-third of our students as drop-outs. Those who graduate and enroll in college face academic difficulties. Some reports have stated that as much as 35 percent of our college course work involves remedial education.

We all have to recognize that at this moment the needs of 720-thousand students in K-12 are greater than the immediate needs at other levels of education.

Tonight...when the lights are out and you are reflecting on the opening of this session...will you join me in your hearts in a renewed commitment to eradicate illiteracy.

I have with me a letter to the editor from the *Birmingham News* dated Feb. 13, 1995. Let me share it with you tonight.

Dear Editor:

"The question: Do we need a constitutional amendment to allow prayer in public schools? The answer: We already have one." After quoting the First Amendment the letter goes on, "to simplify the First Amendment, it means that school prayer is none of the government's business. Also, it cannot do anything to stop us from praying or make us pray. We can pray if we want. Our country was born because people wanted to have the right to worship God as they please.

"There is no doubt in my mind that prayer should be a part of our school activities. Prayer has always been in our schools and always should be in our schools." Signed, John Collier of Vestavia Hills Elementary Central.

Young Mr. Collier...a fifth grade student...is right. John...please stand for a moment and let us thank you for so eloquently stating the truth.

If Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof...how could a U.S. Supreme Court, after 174 uninterrupted years of prayer in school, suddenly announce one morning in 1962 that prayer was no longer legal? They cannot make law, but they did. And chaos and confusion have followed in the courts and schools.

I will ask this Legislature to pass a resolution confirming First Amendment rights to pray in schools. I will issue an executive order to every school board and superintendent in Alabama confirming the First Amendment right to pray in school. And I will ask U.S. House Speaker Newt Gingrich and U.S. Senate Majority Leader Bob Dole to pass a joint resolution to send to the U.S. Supreme Court confirming First Amendment rights to pray in the public schools of America.

The economy and job growth within Alabama is good. We can make it better...by ensuring that tax incentives to new and existing industry are competitive with other states.

Therefore I will propose amendments that will make our present incentive package workable and keep Alabama competitive...but we won't give away the state.

There is no industry in the state with a better record of investment...productivity...and high-paying jobs than Alabama's coal industry. Even so...competition from low-wage countries remains a threat to its growth and prosperity.

Therefore...I propose a bill to provide an income tax credit of one dollar per ton to Alabama coal producers for the tonnage increases of one year in excess of prior-year's tonnage. This is the best of both worlds as this tax incentive helps increase production and it helps increase tax revenue.

I will propose legislation that will protect private property rights from unfair government regulations. The Private Property Protection Act will require that state and local governments examine the impact on private property before introducing new laws or new regulations which might diminish the value of the property.

This administration will continue to fight against crime. I propose the Truth in Sentencing Act of 1995. This legislation will guarantee that the criminal will serve the time he is sentenced and only the judge who sentenced him can release him.

To protect the integrity of our worker's compensation system...I will propose a bill to set up an anti-fraud unit within the Worker's Compensation Division of the Department of Industrial Relations. No new taxes or additional funds are required to implement this proposal.

We have a crisis in public confidence in our judicial system. Last year more than 6-Million dollars was spent on Supreme Court elections alone. You may ask, "Is the integrity of a judge compromised by this commercialization of the bench?" I cannot answer that question. The more appropriate question is: "Do the people believe this process produces judges who rule for the public interest or the special interest?"

Under the doctrine known to lawyers as "judicial review," the exercise of judicial power has become raw political power...because as few as five justices can change the meaning of the law...alter settled concepts of Constitutional law so as to strike down your legislative statutes...and even place the courts in control of that which our Constitution left to other branches of government under the separation of powers doctrine. Our Constitution can only be changed by Constitutional amendment. Why do we have a separation of powers doctrine? Our Constitution says it best. We have a separation of powers doctrine because, and I quote, "to the end that (ours) may be a government of laws...not of men."

What is the solution to this crisis? Should we do nothing? Should we sit back and allow any group the opportunity to spend its way into power? And then have the process repeat itself again and again? The answer is no.

Should we solve our current crisis by appointing judges for life as is done with federal judges? A resounding no.

We must act in two general areas to meet the crisis. First...we must design a method of judicial selection that permits independence and yet retains a healthy measure of accountability to the public. Second...we must stop excessive judicial usurpation of the legislative power. The court must never forget that the role of the judiciary is to make society live by the rules society has made: not to make the rules for society.

I am asking you to give the people the right to vote for a Constitutional amendment that would allow all vacancies on the Alabama Supreme Court...the Court of Criminal Appeals...and the Court of Civil Appeals to be filled by appointment of the governor. Names of nominees would be submitted by a nominating commission composed of the lieutenant governor...the Speaker of the House...two representatives of the Alabama State Bar...a representative of the Circuit Judges Association and two persons appointed by the governor from the public at large.

This also would allow the people the right to vote for whether an appellate judge should be retained or replaced. We would rid ourselves of the spectacle of appellate judges raising money to campaign against another candidate.

I also propose legislation dealing with campaign spending in judicial elections. I submit that lawyers and their clients should have to disclose just how much money they and employees acting under their direction gave to a successful judge or justice. I propose that in certain instances a judge should not hear a case unless other parties who have not been so heavily involved in the judge's campaign agree in writing to allow the judge to participate.

I believe we should eliminate the risk of judicial usurpation. Let me give you an example of a judge making law and appropriating state taxes.

I call the case the Judge Reese School Take Over Ruling. The judge boasted about it in a campaign ad when he said and I quote, "I stood up to the Legislature...when they wanted to delay school reform I told them to get back to work."

This circuit judge in the heat of a campaign for the Supreme Court acted as if he were a Legislature...state school board...and governor...all in one.

He has taken over the schools...and imposed a 225-page experimental education policy...and he has impounded at this hour more than 22-Million dollars of ASETF revenue. What is he going to do with it? Pay legal fees? Pay the American Civil Liberties Union? Pay his hand-picked consultants?

I ask you to join me in curing judicial usurpation. I offer four proposals to do this.

First...give the people the right to vote for a Constitutional amendment that would restrain the power of judicial review. In certain instances where the question is so close that at least three justices have dissented...the Legislature and the governor should be able to override the court. These instances would be limited to when the court holds that a statute violates the Alabama Constitution; draws the line on separation of powers in its favor; and...declares what you intended when you enacted a statute.

When any such question is that close...power should repose in the hands of a majority of the 140 members of this Legislature and not as few as five justices on the Supreme Court.

Second...I also ask that you give the people the right to vote for a Constitutional amendment that gives back to this Legislature the power to impeach judges and justices. The measure of public accountability available by the existence of this authority was an integral part of our state Constitution until 1972. We need to restore it. This amendment would not displace the Judicial Inquiry Commission or the Court of the Judiciary.

Third...I also propose that our Constitution be amended in the area dealing with judicial discipline. We should put more non-lawyers on the Court of the Judiciary and the Judicial Inquiry Commission. We should take other steps to ensure sound judicial administration.

Finally...I call on the Supreme Court to amend The Canons of Judicial Ethics to condemn personal solicitations for money by any sitting judge or justice and to prevent any judge or justice from participating in the campaign of any other person for judicial office. I recognize that many good minds are currently studying the entire judicial process and I welcome their input.

A separate issue of "Tort Reform" merits discussion. Sweeping proposals that affect the laws of this state in the controversial realm of "punitive damages" and related measures affecting civil lawsuits are presently before the U.S. Congress. Laying to one side my personal view that intrusive federal laws should not dictate tort reform legislation to the states...I see no useful purpose in devoting time and energy at this session of the Legislature to an issue where whatever is done by this body may be overridden by action in Washington.

I respectfully request the distinguished members of the Alabama Supreme Court here with us tonight to advise me if they are not at least in substantial compliance in favor of these reform measures.

I propose a tough ethics bill with teeth. A bill designed and supported by Speaker Clark...Gov. Siegelman...Attorney General Sessions...the Ethics Commission and its director Mr. Mac McArthur...and I believe by an overwhelming majority of the Legislature.

The major points of the bill are six-fold:

1) The Ethics Commission may begin investigations on its own if all five commissioners vote to do so.

2) No state official can take a job lobbying for a certain special interest until two years after leaving the state job.

3) Define the difference between a campaign contribution, a bribe, and a gift.

4) Prohibit lobbyists from giving anything to a state official other than a campaign contribution.

5) Provide protection for whistleblowers.

6) Set up a system of fines for minor ethics violations.

This bill...thanks to you Mr. Speaker and thanks to you Gov. Siegelman...is at the top of the legislative agenda.

I propose a campaign finance bill that will eliminate the commingling of funds so the name of a campaign contributor and final recipient of the contribution are connected and fully disclosed.

Public disclosure on a timely basis directly linking who gives and who receives is the backbone of any honest campaign finance reform.

The time has come to give the people of Alabama the right to put an issue on the ballot for a statewide referendum vote. This principle of American democracy has been proven effective down through the years in state after state. There is no danger of "mob rule" with a signature threshold of six percent of the general election vote total including two percent of each Congressional District vote total cast in the last governor's election. I urge you to pass a

resolution for a Constitutional amendment to give the people of Alabama the right of initiative and referendum. They richly deserve it.

I have had the pleasure of meeting the legislators elected since I left office in 1983. I am impressed with your energy...your intellect...and your sense of duty.

I ask that each of us look at the clock and the calendar. We are 90 days into the last complete legislative and gubernatorial term of the 20th century.

Let us tonight begin the work to ensure that generations of the 21st century will have even greater freedom...opportunity and quality of life. Is this too noble a goal? Too lofty a task for the people of Alabama? I think not. May we find ourselves at this moment in history worthy of the task. Thank you."

Act No. 95-19 H. 59 – Rep. Fuller

AN ACT

To provide for the continuation of pension benefits for certain public employees retired under the Employees' Retirement System or the Judicial Retirement Fund when they accept certain employment with the legislative branch of state government during retirement and to specify the conditions do not apply to certain independent contractors.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) It is lawful and permissible for any public employee who has retired under the Employees' Retirement System or the Judicial Retirement Fund to be employed with the House of Representatives, the Senate, the Department of the Examiners of Public Accounts, the Legislative Fiscal Office, or the Legislative Reference Service if the person so employed is physically and mentally capable of performing the required work in the opinion of the employing authority, is not employed in a permanent full-time capacity, does not replace a full-time employee, and does not receive compensation and expenses, other than reimbursement of normally reimbursable employee expenses, in excess of the base allowed under federal Social Security for a person age 67, as set from year to year, for any legislative session in a calendar year.

(b) A retiree employed under this section shall continue to receive all retirement benefits which the retiree would normally receive if he or she were not so employed, subject to the limitations of this section.

(c) The responsibility for compliance with this section is placed upon the employing authority and each retiree employed under this section shall certify to the employer any information required for compliance with this section.

(d) Nothing in this section or any other provision of law shall prevent a person age 65 or over who has retired under the Employees' Retirement System or the Judicial Retirement Fund from performing services for the House of Representatives, the Senate, the Department of Examiners of Public Accounts, the Legislative Fiscal Office, or the Legislative Reference Service as an independent contractor without regard to the limitations in subsection (a).

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 9, 1995

Time: 3:40 P.M.

Act No. 95-20 H.J.R. 3 – Rep. Hammett

HOUSE JOINT RESOLUTION

COMMITTEE APPOINTED TO ESCORT GOVERNOR TO JOINT SESSION OF LEGISLATURE.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That a joint session of the House and Senate be held at 6:30 p.m. on Tuesday, April 18, 1995, for the purpose of hearing the message of the Honorable Fob James, Governor of Alabama.

BE IT FURTHER RESOLVED, That a committee of six, consisting of three members of the House, to be named by the Speaker of the House, and three members of the Senate, to be named by the Presiding Officer of the Senate, be appointed to wait upon the Governor and advise him that the two Houses will meet in joint session at the hour named above, for the purpose of receiving his message, and that said Committee also serve as a Committee to escort the Governor to the House Chamber in the State Capitol for the joint session.

Approved May 10, 1995

Time: 8:15 A.M.

Act No. 95-21 H.J.R. 4 – Rep. Hammett

HOUSE JOINT RESOLUTION

RELATIVE TO MEETING DAYS.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That when the two houses adjourn today, Tuesday, April 18, 1995, they adjourn to meet again on Thursday, April 20, 1995, and when they adjourn on Thursday they adjourn to meet again on Wednesday, May 3, 1995, and when they adjourn on Wednesday they adjourn to meet again on Thursday, May 4, 1995.

Approved May 10, 1995

Time: 8:16 A.M.

Act No. 95-22 H.J.R. 5 – Reps. Hammett, Sanderford

HOUSE JOINT RESOLUTION

INVITING THE COMMANDANT OF THE UNITED STATES MARINE CORPS TO ADDRESS A JOINT SESSION OF THE ALABAMA LEGISLATURE.

WHEREAS, General Carl E. Mundy, Jr. is a native Alabamian, a graduate of Lanier High School in Montgomery, and a graduate of Auburn University; and

WHEREAS, General Mundy has had a long and illustrious military career with many military accomplishments; and

WHEREAS, General Mundy currently serves as a Commandant of the United States Marine Corps; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most respectfully request General Carl E. Mundy, Jr. to address a joint session of the Alabama Legislature on Thursday, April 20, 1995, at 1:30 p.m. whereupon the Alabama Senate and the Alabama House of Representatives will assemble in joint session in the House Chamber to hear his remarks.

BE IT FURTHER RESOLVED, That General Mundy be advised by copy of this resolution of our invitation to address the Legislature and of our hopeful anticipation of his acceptance.

Approved May 10, 1995

Time: 8:17 A.M.

Act No. 95-23 H.J.R. 2 – Rep. Hammett

HOUSE JOINT RESOLUTION

COMMITTEE APPOINTED TO NOTIFY GOVERNOR LEGISLATURE IS IN SESSION.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That a committee of six, consisting of three members of the House, to be named by the Speaker of the House, and three members of the Senate, to be named by the Presiding Officer of the Senate, be appointed to notify the Governor that the Legislature is now in session and is ready for the transaction of business.

Approved May 10, 1995

Time: 8:18 A.M.

Act No. 95-24 S.J.R. 3 – Senator Lindsey

SENATE JOINT RESOLUTION

ELECTING A LEGISLATIVE REPRESENTATIVE TO THE GULF STATES MARINE FISHERIES COMMISSION.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That pursuant to Sections 9-12-180 and 9-12-181 of the Code of Alabama 1975, the Legislature of Alabama, by the adoption of this resolution, elects Representative Walter E. Penry, Jr., as the elected legislative representative of the State of Alabama on the Gulf States Marine Fisheries Commission. The Clerk of the House of Representatives shall forward a certified copy of this resolution to the Gulf States Marine Fisheries Commission.

Approved May 10, 1995

Time: 8:19 A.M.

Act No. 95-25 S.J.R. 4 – Senator Freeman

SENATE JOINT RESOLUTION

RECOGNIZING THE SPACE SHUTTLE MAIN ENGINE PROGRAM AND MARSHALL SPACE FLIGHT CENTER, HUNTSVILLE, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, the successful launching of the Space Shuttle Discovery (STS-63), February 2, 1995, marked more than 200 engine flights, and a major milestone for the Space Shuttle Main Engine (SSME) program managed by NASA's Marshall Space Flight Center in Huntsville, Alabama; and

WHEREAS, it was also an achievement which further demonstrated Huntsville's Marshall Space Flight Center as a world class leader and center of excellence in propulsion and space transportation; and

WHEREAS, the contract to build the SSME, cited as the most complicated machine ever built, and one of America's greatest technological achievements, was initiated August 11, 1972, with Rockwell Aerospace, a world leader in the manufacture and design of advance aircraft and space systems; and

WHEREAS, over the years since the first shuttle lift-off in April 1981, there have been 67 completed shuttle launches, including the STS-63, and the SSMEs have achieved a 100% mission success rate in 14 years of flight service; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That it is with highest commendation that we note the 201st engine flight of the Space Shuttle Main Engine and recognize the success of the Marshall Space Flight Center Space Shuttle Main Engine program, which has brought honor and distinction to the Huntsville community, Madison County, and to our state.

Approved May 10, 1995

Time: 8:20 A.M.

Act No. 95-26 S.J.R. 8 – Senator Butler

SENATE JOINT RESOLUTION

MOURNING THE DEATH OF KELLY ANTONETTE DEFOE OF ATHENS, ALABAMA.

WHEREAS, it is with profound sorrow and regret that the Alabama Legislature records the untimely death of Kelly Antonette Defoe of Athens, Alabama, on March 3, 1995, at the early age of 16 years; and

WHEREAS, Miss Defoe, who died as the result of a tragic automobile accident, was the beloved daughter of Connie and Larry Ball and Tony and Kay Defoe, and an 11th grade student at West Limestone High School; and

WHEREAS, Miss Defoe was indeed an exceptional young lady whose future was bright with promise, and her sudden death leaves her family, many friends, and the entire community sorely bereft in grief; and

WHEREAS, in addition to her parents, Miss Defoe is survived by a brother, Keith Defoe; half brother, Mitchell Nathan Defoe; two stepsisters, Amanda Nicole Defoe and Tabatha Dawn Ball; grandmothers, Marie Long and Leona Wilson; and other close family members and friends; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as her

death is mourned, we give thanks for the life of Kelly A. Defoe and for the great joy she brought to her adoring family, whose sorrow we share, and for whom a copy of this resolution shall be provided.

Approved May 10, 1995

Time: 8:21 A.M.

Act No. 95-27 S.J.R. 9 – Senator Butler

SENATE JOINT RESOLUTION

MOURNING THE DEATH OF REGINA FAYE CLARK OF ATHENS, ALABAMA.

WHEREAS, the Alabama Legislature grievously records the untimely death of Regina Faye Clark of Athens, Alabama, on March 3, 1995, at the age of just 17 years; and

WHEREAS, Miss Clark, who died as the result of a tragic automobile accident, was an eleventh grade student at West Limestone High and attended the Limestone County Area Vocational Technical Center; and

WHEREAS, the daughter of Glen and Betty Clark of Athens, Miss Clark was a fine young woman whose future was bright with promise and her death has left an unfathomable void in the life of the community, and in the hearts of her beloved family and many, many friends; and

WHEREAS, in addition to her parents, Miss Clark is survived by a sister, Melinda Ann Ashby; a half sister, Michelle Clark; a brother, Jerry Dwight Breedwell; a half brother, Wallace Glen Clark, Jr.; grandmothers, Ruthie Adams and Doris Clark; and other close family members; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as we mourn her death, we give thanks for the life of Regina Faye Clark and for the untold joy she brought to her loving family, whose sorrow we sincerely share and for whom a copy of this resolution of heartfelt condolence shall be provided.

Approved May 10, 1995

Time: 8:22 A.M.

Act No. 95-28 S.J.R. 10 – Senator Butler

SENATE JOINT RESOLUTION

MOURNING THE DEATH OF ARTHUR ALLEN MING OF ATHENS, ALABAMA.

WHEREAS, the Legislature of Alabama is deeply saddened by the death of Arthur Allen Ming of Athens, Alabama, on January 22, 1995, at the age of 73 years; and

WHEREAS, a native of Inverness in Bullock County, and a resident of Athens for the past 31 years, Mr. Ming was a deacon of First Baptist Church of Athens, a veteran of the United States Army Air Corps during World War II, a mason, and a member of NORALA Holiday Rambler Club; and

WHEREAS, he also served with distinction for 38 years as a civil service employee of the United States Army Missile Command at Redstone Arsenal, and was chaplain of the Athens/Limestone County Chapter of the National Association of Retired Federal Employees; and

WHEREAS, the high regard in which he was held by his loving family, his myriad of friends, and other individuals fortunate enough to have known him stands as a testament for those who strive for the best in personal, professional and community life, and his memory will live forever in the hearts and minds of those whose lives were touched by his genuine care and concern; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are grievously saddened by the death of Arthur Allen Ming of Athens, Alabama, and extend our deepest sympathy to his devoted wife, Attie Johnson Ming; son, William Calvin Ming; two daughters, Marsha Ming White and Missy Ming Smith; sister, Catherine Ming Stepchuck; to his four grandchildren; and to other family members, for whom a copy of this resolution of sincere condolence shall be provided.

Approved May 10, 1995

Time: 8:23 A.M.

Act No. 95-29 S.J.R. 11 – Senator Mitchell

SENATE JOINT RESOLUTION

SUSTAINING THE DISAPPROVAL BY THE JOINT

COMMITTEE ON ADMINISTRATIVE REGULATION REVIEW OF THE ALABAMA MEDICAID AGENCY'S PROPOSED AMENDMENT OF RULE NO. 560-X-16-.09, ENTITLED "PRIOR AUTHORIZATION."

WHEREAS, the Alabama Medicaid Agency filed a "Notice of Intended Action" of the proposed Amendment of Rule No. 560-X-16-.09, entitled "Prior Authorization," a copy of which is attached and made a part of this resolution; and

WHEREAS, the notice was published in the Alabama Administrative Monthly, dated January 31, 1994; and

WHEREAS, the Alabama Medicaid Agency certified to the Legislative Reference Service the adoption of an amendment to Rule No. 560-X-16-.09, on March 11, 1994, which was the subject of a review at a meeting of the Joint Committee on Administrative Regulation Review on April 6, 1994; and

WHEREAS, after hearing from interested persons, the Joint Committee, in accordance with Section 41-22-23(c), Code of Alabama 1975, disapproved the proposed amendment of Rule No. 560-X-16-.09, entitled "Prior Authorization"; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the decision of the Joint Committee to disapprove the proposed rule amendment to Rule No. 560-X-16-.09, entitled "Prior Authorization," is sustained.

Approved May 10, 1995

Time: 8:24 A.M.

Act No. 95-30

S.J.R. 13 – Senators Dixon, Adams, Amari, Armistead, Bailey, Barron, Bedford, Biddle, Butler, Clay, Davidson, Denton, Dial, Escott-Russell, Figures, Freeman, Ghee, Hale, Hill, Langford, Lindsey, Lipscomb, Little, McClain, Mitchell, Mitchem, Myers, Poole, Roberts, Sanders, Smith, Smitherman, Steele, Waggoner, and Windom

SENATE JOINT RESOLUTION

COMMENDING THE ALABAMA CHILDREN'S REHABILITATION SERVICE ON THE OCCASION OF ITS SIXTIETH ANNIVERSARY.

WHEREAS, it is with great pleasure that the Alabama Legislature recognizes the 60th Anniversary of Alabama Children's Rehabilitation Service; and

WHEREAS, the Alabama State Crippled Children Service, renamed Children's Rehabilitation Service in 1990, was established in 1935 by act of the Alabama Legislature to provide medical, surgical, corrective and other services, including hospitalization and after-care, for children with disabilities; and

WHEREAS, over the past 60 years, Children's Rehabilitation Service, a part of the Alabama Department of Rehabilitation Services, has ably served the needs of some 27,000 Alabama children and the families of these children with special health care needs, providing a statewide system of specialty medical, rehabilitative and support services that are family centered, comprehensive, culturally competent, and community based; and

WHEREAS, the service has also taken a leadership role in developing consumer participation by the establishment of fifteen Parent Advisory Committees, and the employment of parents to enhance support services; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding contributions toward the care and well-being of Alabama's special children and their families, we hereby most heartily commend Children's Rehabilitation Service, and direct that a copy of this resolution be forwarded to Mrs. Kay Herrin, Director, for appropriate presentation and display.

Approved May 10, 1995

Time: 8:25 A.M.

Act No. 95-31 S.J.R. 14 – Senators Dixon and Langford

SENATE JOINT RESOLUTION

COMMENDING THE JEFFERSON DAVIS HIGH SCHOOL VOLUNTEERS ON THE 1995 STATE 6A BASKETBALL CHAMPIONSHIP.

WHEREAS, the Alabama Legislature extends heartiest congratulations to the Jefferson Davis High School Volunteers of Montgomery, Alabama, as Alabama's 1995 State 6A Basketball Champions; and

WHEREAS, the Champion Volunteers, under the able leadership of Head Coach Wilbert Hamilton finished the season with a spectacular record of 32-1; and

WHEREAS, in the state tournament, the Volunteers exhibited superb finesse and style to defeat rival Selma High School, third-ranked Central High School of Phenix City, and second-ranked Butler County High School to advance to the championship game; and

WHEREAS, the Volunteers destroyed Parker High School of Birmingham in the championship game by a score of 83-55 to win the first 6A Boys Title for Jefferson Davis High School; and

WHEREAS, in winning the 1995 State 6A Basketball Title, the Volunteers are indeed deserving of highest praise, as are all those who played an instrumental role in the team's victorious season; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, we hereby most highly commend Coach Wilbert Hamilton, his staff, and the Jefferson Davis High School Volunteers on the 1995 State 6A Basketball Championship, and do further direct that copies of this resolution be forwarded to Jefferson Davis High School for appropriate presentation and school display.

Approved May 10, 1995

Time: 8:26 A.M.

Act No. 95-32 S.J.R. 15 – Senators Bedford, Denton, Amari, Waggoner and Dixon

SENATE JOINT RESOLUTION

COMMENDING CLYDE B. ANDERSON OF BIRMINGHAM, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, it is with highest commendation and esteem that the Legislature of Alabama notes the outstanding achievement of Clyde B. Anderson, Chief Executive Officer of Books-A-Million, who was named the 1994 Alabama CEO of the Year; and

WHEREAS, Mr. Anderson is the third generation of a family owned business that was started by his grandfather, Clyde W. Anderson, in 1917 as a young boy selling newspapers from a corner newsstand in Florence, Alabama; and

WHEREAS, Mr. Anderson's brilliance and outstanding success in building Bookland into the large superstore chain, Books-A-Million, is a result of hard work, good management skills, a love for people, and a keen business savvy; and

WHEREAS, Clyde Anderson has exemplified the highest standards of professionalism through his example of leadership and dedicated commitment to his business, earning the respect and admiration of his employees, colleagues, and customers; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, we hereby commend Clyde B. Anderson, who we hold in highest esteem and for whom a copy of this resolution shall be presented.

Approved May 10, 1995

Time: 8:27 A.M.

Act No. 95-33 S.J.R. 16 – Senators Bedford, Denton and Windom

SENATE JOINT RESOLUTION

COMMENDING CAROLINE SELF, ALABAMA'S 1995 JUNIOR MISS.

WHEREAS, it is with tremendous pride that the Alabama Legislature congratulates and commends 17-year-old Caroline Self of Florence, Alabama, on being selected Alabama's Junior Miss for 1995; and

WHEREAS, Caroline Self, an outstandingly talented and beautiful Bradshaw High School senior, and the daughter of Mr. and Mrs. Henry H. Self Jr., of Florence, represented Lauderdale County in the statewide competition in Montgomery on January 21st; and

WHEREAS, the new Alabama Junior Miss, the first to be chosen from the Northwestern region of the state in more than a decade, and only the second in the 38-year history of the pageant, attributes her success to the preparation she received in the Northwest Alabama competition in August, 1994; and

WHEREAS, Caroline Self has already received numerous college scholarship offers from more than 20 schools, including schools from around the state and Virginia, Missouri, Mississippi, and Maryland, as a result of her new Junior Miss Title; and

WHEREAS, in mid June, she will travel to Mobile to most ably represent the State of Alabama in the National Junior Miss Competition; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily congratulate Caroline Self, Alabama's Junior Miss 1995, and express our deep pride and sincere best wishes as she so ably represents Alabama in the National Junior Miss Competition in Mobile.

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to her as a token of our sincere warm praise and regard.

Approved May 10, 1995

Time: 8:28 A.M.

Act No. 95-34 S.J.R. 17 – Senators Bedford, Smitherman, Escott-Russell, Sanders and McClain

SENATE JOINT RESOLUTION

MOURNING THE DEATH OF JESSE J. LEWIS, JR., OF BIRMINGHAM, ALABAMA.

WHEREAS, the Legislature of Alabama grievously records the death of Jesse J. Lewis, Jr., of Birmingham, Alabama, on February 26, 1995, at the age of just 38 years;

WHEREAS, Mr. Lewis, whose death resulted from a tragic automobile accident, was a prominent area businessman and civic leader who left an indelible mark on his community and all who knew him; and

WHEREAS, as president and chief executive officer of Jesse J. Lewis & Associates, a firm founded by his father, Jesse J. Lewis, Sr., he earned the admiration and respect of all with whom he was associated both as a dedicated professional and as an individual; and

WHEREAS, as a concerned citizen he was committed to the good and well-being of his community, and his generous leadership and support in numerous civic affairs are of lasting benefit to the citizens of Birmingham; and

WHEREAS, the untimely death of Jesse J. Lewis, Jr. is indeed a severe blow to the community, and to his beloved family and many, many friends, all of whom are sorely bereft in their great and grievous loss; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the death of Jesse J. Lewis, Jr., and extend deepest sympathy to his beloved parents, Mr. and Mrs. Jesse J. Lewis, Sr.; to his brother, James Lewis; and to other close family members, whose sorrow we sincerely share and for whom a copy of this resolution shall be provided.

Approved May 10, 1995

Time: 8:29 A.M.

Act No. 95-35 S.J.R. 18 – Senator Bedford

SENATE JOINT RESOLUTION

COMMENDING COACH DON COX, 4A-6A FOOTBALL COACH OF THE YEAR.

WHEREAS, in its desire to recognize individuals of exceptional achievement in their chosen field of endeavor, the Alabama Legislature notes with utmost commendation the outstanding career of football coach Don Cox of the Russellville High School Golden Tigers in Russellville, Alabama; and

WHEREAS, Coach Cox, who has been at the helm of the Russellville football dynasty for 15 seasons was named the Times Daily's 1994 4A-6A Coach of the Year in the All-Area balloting, leading the Golden Tigers to an impressive season record of 12-2, that placed them in the playoffs; and

WHEREAS, the two goals of Coach Cox, who is a fierce competitor, are to keep the Russellville football program one of the best in the state and to win a state championship; and

WHEREAS, Coach Cox's outstanding accomplishments and ability as a coach were never more evident than this year when eight of his players were chosen to play on the All-Area team; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend and congratulate Coach Don Cox of Russellville High School on his selection as 1994 4A-6A Football Coach of The Year, and direct that he receive a copy of this resolution of highest praise and esteem, and best wishes for continued success.

Approved May 10, 1995

Time 8:30 A.M.

Act No. 95-36

S.J.R. 19 – Senators McClain, Adams, Amari, Armistead, Bailey, Barron, Bedford, Biddle, Butler, Clay, Davidson, Denton, Dial, Dixon, Escott-Russell, Figures, Freeman, Ghee, Hale, Hill, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Myers, Poole, Roberts, Sanders, Smith, Smitherman, Steele, Waggoner, and Windom

SENATE JOINT RESOLUTION

COMMENDING DERON DAVIS OF HUEYTOWN, ALABAMA.

WHEREAS, in a desire to recognize young Alabamians of outstanding achievement, the Alabama Legislature commends and congratulates Deron Davis of Hueytown, Alabama; and

WHEREAS, Deron, the 14-year-old son of Loretta Marable, and an eighth grade student at Holy Family Elementary School in Ensley, recently became the state's top speller when he correctly spelled the word "propitious," and captured the state Spelling Bee Championship, an event sponsored by the Birmingham Post-Herald; and

WHEREAS, young Deron, who will represent our state at the National Spelling Bee to be held in Washington, D.C., in May, is a fine young man of outstanding academic ability, and is indeed deserving of public recognition and applause; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, highest commendation and heartiest

congratulations are hereby accorded Deron Davis of Hueytown, Alabama, a young Alabamian of whom we are justly proud, and for whom a copy of this resolution of highest regard shall be provided.

Approved May 10, 1995

Time: 8:31 A.M.

Act No. 95-37 S.J.R. 20 – Senators Windom and Myers

SENATE JOINT RESOLUTION

NAMING THE NEW DOG RIVER BRIDGE IN MOBILE COUNTY THE "JOHN ROBERTS PEAVY BRIDGE."

WHEREAS, John Roberts Peavy, born in 1882 in Marvin, Alabama, the son of a Methodist Minister, received his formal education at the University of Alabama, earning a B.S. degree in civil engineering; and

WHEREAS, following a year of teaching at Vanderbilt University, Mr. Peavy served successively with the GM&O Railroad and as assistant city engineer with the City of Mobile before assuming the position of chief engineer for Mobile County in 1927, an office he held until 1935; and

WHEREAS, it was during his tenure as county engineer that the existing Dog River Bridge in Mobile County was constructed; under his able leadership and guidance, plans for the bridge were approved and Mr. Peavy continued as the public representative for the project until its completion; and

WHEREAS, later in his career, Mr. Peavy served as maintenance engineer for the State of Alabama Highway Department from 1935 to 1940, and as Superintendent of Water Works for the City of Mobile, until his lamentable death on August 27, 1941; and

WHEREAS, preceded in death by his devoted wife, Alberta Kimbrough Peavy, and two sons, Mr. Peavy is survived by daughters, Frances (Peavy) Howell and Mary Elizabeth (Peavy) Bazzel, and one son, Thomas K. Peavy; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the new Dog River Bridge in Mobile County be named and designated the "John Roberts Peavy Bridge" in memorium to the outstanding contributions and service of the late John Roberts Peavy, and that copies of this resolution be provided for Mr. Peavy's family as evidence of our tribute and esteem.

BE IT FURTHER RESOLVED, That the proper officials be authorized to erect and maintain signs and markers designating said "John Roberts Peavy Bridge."

Approved May 10, 1995

Time: 8:32 A.M.

Act No. 95-38

S.J.R. 24 – Senators Little, Poole, Adams, Amari, Armistead, Bailey, Barron, Bedford, Biddle, Butler, Clay, Davidson, Denton, Dial, Dixon, Escott-Russell, Figures, Freeman, Ghee, Hale, Hill, Langford, Lindsey, Lipscomb, McClain, Mitchell, Mitchem, Myers, Roberts, Sanders, Smith, Smitherman, Steele, Waggoner, and Windom

SENATE JOINT RESOLUTION

COMMENDING YETTA G. SAMFORD, JR., FOR DISTINGUISHED SERVICE TO THE STATE OF ALABAMA.

WHEREAS, it is with highest commendation and esteem that the Legislature of Alabama recognizes Yetta G. Samford, Jr., for a distinguished record of outstanding contributions to his community and the State of Alabama; and

WHEREAS, a native of Opelika, Alabama, Mr. Samford received his undergraduate degree from Alabama Polytechnic Institute (now Auburn University) in 1947 and his law degree from the University of Alabama in 1949, where he was president of Phi Delta Phi Legal Fraternity and was inducted into Omicron Delta Kappa and Quadrangle; and

WHEREAS, in longtime service to his community and fellow citizens, Mr. Samford's concern for others has been made manifest both through his dedicated participation and leadership as a member of numerous advisory boards and committees such as the Opelika Board of Education, Alabama State Chamber of Commerce, trustee of Mobile College, State Docks Advisory Board, and Trustee Emeritus of the University of Alabama, where he provided outstanding leadership and service during his 21-year tenure; and

WHEREAS, in addition to practicing law successfully in Opelika for more than 40 years, Yetta G. Samford served from 1958 to 1962 in the Alabama State Senate, representing Lee and Russell Counties faithfully and in statesman-like leadership; and

WHEREAS, Mr. Samford, throughout his life, has been an inspiration and a true symbol of a distinguished Alabamian, whose integrity, ability, and tireless dedication to the State of Alabama and her citizens, has earned for him the respect and admiration of his colleagues, friends, and the countless individuals whose lives he has touched through genuine care and concern; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement and contributions to the State of Alabama, we hereby most highly commend Yetta G. Samford, Jr., for whom a copy of this resolution of sincere admiration shall be provided.

Approved May 10, 1995

Time: 8:33 A.M.

Act No. 95-39

S.J.R. 25 – Senators Little, Poole, Adams, Amari, Armistead, Bailey, Barron, Bedford, Biddle, Butler, Clay, Davidson, Denton, Dial, Dixon, Escott-Russell, Figures, Freeman, Ghee, Hale, Hill, Langford, Lindsey, Lipscomb, McClain, Mitchell, Mitchem, Myers, Roberts, Sanders, Smith, Smitherman, Steele, Waggoner, and Windom

SENATE JOINT RESOLUTION

HONORING DR. WAYNE TEAGUE FOR HIS TWENTY-YEAR SERVICE TO ALABAMA AS STATE SUPERINTENDENT OF EDUCATION.

WHEREAS, on the occasion of his retirement, it is with highest commendation that the Alabama Legislature recognizes Dr. Wayne Teague for his distinguished career as Alabama State Superintendent of Education; and

WHEREAS, Dr. Teague spent twenty years devoted to the students of Alabama, throughout, remaining firm in his convictions with continuous perseverance in the service of the children; and

WHEREAS, serving with honor and distinction, Dr. Wayne Teague instigated progress in the education system of Alabama with such developments as a system of alternative certification of teachers, the initiation of a new pupil accounting system, the evolution of SDENET, and the implementation of a uniform accounting system; and

WHEREAS, his selfless contributions exerted a profound influence on the State of Alabama, making Dr. Teague a courageous and progressive leader of our time; and

WHEREAS, awarded countless recognitions and honors, the fruitful efforts of Dr. Teague have been acknowledged by such groups as Alabama Council for Exceptional Children, Alabama Reading Association, Phi Kappa Phi, and Kappa Phi Kappa; and

WHEREAS, a native of Cullman, Alabama, Dr. Teague received numerous degrees in education from Auburn University, and has afforded forty years of personal and professional dedication to the paramount responsibility of educating the youth of our country; and

WHEREAS, Dr. Teague and his devoted wife, Josephine Jones Teague, share their dedication to students with their daughter, Karen T. Delano, who is a principal in the Homewood City School System, and have a successful son, Dewey Teague, who is currently excelling in the field of law; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in tribute to his many accomplishments, and in appreciation of his immeasurable contributions to the children of this state, Dr. Wayne Teague is hereby extended the highest commendation for his devoted service.

BE IT FURTHER RESOLVED, That a copy of this resolution of deepest gratitude be prepared for presentation to Dr. Wayne Teague on the occasion of his retirement.

Approved May 10, 1995

Time: 8:34 A.M.

Act No. 95-40 S.J.R. 26 – Senator Hill

SENATE JOINT RESOLUTION

HONORING THE CENTRAL HIGH SCHOOL COUGARS FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, the Alabama Legislature, in utmost commendation, extends heartiest congratulations to the Central High School Cougars, who are the 1995 State 4A Basketball Champions; and

WHEREAS, ending the season with a spectacular 31-1 record, the Cougars also earned champion status in other prestigious tournaments such as the Coca-Cola Classic, Opelika Invitational, and Marble City Classic; and

WHEREAS, Head Coach Joe Belyeu was selected as "Coach of the Year," with the help of his talented Assistant Coach Billy P. Williams; Managers, James Talton, John Talton, Diedre Caldwell, and Joey Belyeu; Score Keepers, Phillip Gaddis and Cynthia Lee; and Statistician Kim Belyeu; and

WHEREAS, an integral role in achieving this coveted title was the enormous talent of the team players, Marcus Whetstone, Lamarrius Whetstone, Sherra Whetstone (MVP State Tournament, All State Team), Terrance Foster, Yata McElrath, Lapoleon Russell, Terrance Leonard (All Tournament Team), Raphaele Gilbert, Adrian Childs, Brandon Porter (All Tournament Team), Antonio Simmons (one invitational all tournament team), Fione Williams, Latarvis Norman, and Adalius Thomas, who was selected as "Player of the Year," All Tournament Team, and All State Team; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend the notable accomplishments of the 1995 4A Basketball Champions, the Central High School Cougars, and direct that a copy be provided for Coach Joe Belyeu for appropriate presentation and display.

Approved May 10, 1995

Time: 8:35 A.M.

Act No. 95-41 S.J.R. 27 – Senator Langford

SENATE JOINT RESOLUTION

RECOGNIZING SIDNEY LANIER HIGH SCHOOL ATHLETICS FOUNDATION, INC.

WHEREAS, the Sidney Lanier High School Athletics Foundation has been established to foster closer relationships between the home, school, parents, and friends of Sidney Lanier High School, and the coaching staff; and

WHEREAS, the Sidney Lanier High School Athletics Foundation seeks to provide funds for athletics that will ensure that players have the opportunity to participate in an atmosphere conducive to the winning tradition of Sidney Lanier High School; and

WHEREAS, the Sidney Lanier High School Athletics Foundation seeks to create an attitude in Sidney Lanier student athletes that brings credit to their God, home, school and themselves through a mental and physical program that will help prepare them for their leadership roles of the future; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby endorse and applaud the actions of the Sidney Lanier High School Athletics Foundation, Inc., and go on record to encourage the citizens of the State of Alabama to support the efforts of the said Foundation so that the winning tradition and excellent reputation Sidney Lanier High School so richly deserves will continue and grow.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided for appropriate presentation and display and as a token of tribute and esteem.

Approved May 10, 1995

Time: 8:36 A.M.

Act No. 95-42 H.J.R. 27 – Rep. Parker (T)

HOUSE JOINT RESOLUTION

RECOGNIZING WITH COMMENDATION THE 175TH ANNIVERSARY OF COKER BAPTIST CHURCH.

WHEREAS, the Alabama Legislature notes with highest commendation the 175th Anniversary Celebration of Coker Baptist Church for its many years of Christian worship and service to the community; and

WHEREAS, as one of the oldest churches in the Tuscaloosa Association, historic Big Creek Church was located eight miles northwest of the City of Tuscaloosa and was the fruitful mother of several churches since its organization in 1820; and

WHEREAS, in 1944 the church moved from beside Highway 82, its location for 110 years, into the heart of Coker, Alabama, and members eventually voted unanimously to change its name to Coker Baptist Church; and

WHEREAS, over the years, innumerable dedicated Christians have made Coker Baptist Church their church home, where they have worshipped and labored in the Lord, so this 175th Anniversary Celebration, on July 16, 1995, is an occasion of thanksgiving and praise for His everlasting mercy and grace so generously bestowed; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in gratitude for the many contributions to the spiritual needs of its neighbors and for the progress and betterment of its community, state, and country, we join with all present and former members of Coker Baptist Church in celebrating its 175th anniversary.

BE IT FURTHER RESOLVED, That a copy of this resolution, of lasting tribute and esteem, be provided for presentation during the Anniversary Celebration on Sunday, July 16, 1995, with sincere best wishes for continued growth and success.

Approved May 10, 1995

Time: 8:37 A.M.

Act No. 95-43 H.J.R. 31 – Reps. Holmes, McClammy, Knight (J)

HOUSE JOINT RESOLUTION

HONORING DR. WILLIAM HAMILTON HARRIS ON BEING INAUGURATED AS PRESIDENT OF ALABAMA STATE UNIVERSITY

WHEREAS, it is with highest commendation and warmest congratulations that the Legislature of Alabama recognizes Dr. William H. Harris on being selected as the 10th President of Alabama State University; and

WHEREAS, a native of Fitzgerald, Georgia, born July 22, 1944, Dr. Harris received an A.B. degree from Paine College in 1966, an M.A. from Indiana University in 1967, and a Ph.D. from Indiana University in 1973; and

WHEREAS, Dr. Harris has served in such notable positions as Vice-President and President Elect for the Association of Texas

Colleges and Universities, Board of Directors for Greater Houston Partnership and Houston International Festival, and President of Southwestern Atlantic Conference Council of Presidents; and

WHEREAS, participant in various significant professional organizations including Organization of American Historians, National Association for Equal Opportunity, and Association for the Study of Afro-American Life and History, Dr. Harris has established himself as a capable and talented authority in many areas; and

WHEREAS, Dr. Harris has also made immeasurable contributions to his community by undertaking such responsibilities as conference lecturer, project advisor, and dissertation director, among others too numerous to mention; and

WHEREAS, an insightful and prolific author of countless books and other publications, Dr. Harris has been bestowed such prestigious honors and awards as Indiana University Distinguished Alumni Service Award, United States Foreign Affairs Scholar, Paine College Special Trustees' Award, and Susan O'Kell Memorial Award for Distinguished Teaching, earning the respect of his colleagues and community; and

WHEREAS, Dr. Harris has been married since 1966 to his dedicated and loving wife, Wanda Filmore Harris, and the couple is blessed with two children, Cynthia M. Harris and William J. Harris; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of his esteemed position as President of Alabama State University, the Alabama Legislature hereby honors Dr. William H. Harris and furthermore directs that a copy of this resolution be provided as evidence of our personal regard.

Approved May 10, 1995

Time: 8:38 A.M.

Act No. 95-44 H.J.R. 32 – Reps. Hall (A), Hinshaw

HOUSE JOINT RESOLUTION

COMMENDING THE BUCKHORN BUCKS BASKETBALL TEAM OF NEW MARKET, ALABAMA, FOR WINNING THE CLASS 5A STATE BASKETBALL TITLE.

WHEREAS, the Alabama House of Representatives most heartily congratulates and commends Coach Phillip Collie and his Buckhorn Bucks, the 1994-95 Class 5A State Basketball Champions; and

WHEREAS, this outstandingly talented team of young athletes led by Coach Collie made their dream come true by virtue of an extraordinary victory in double over-time, 75-69 over the Phillips Red Raiders, to win their first Class 5A title and their second state title in five years; and

WHEREAS, members of the championship team are Maurice Baker, Devin Beasley, Kyle Clemons, Ben Cole, Marcus Davidson, Gerald Dillard, Chauncey Ford, Greg Griffin, John Hill, Darwin Hobbs, Tony Leslie, Madrae Scruggs, Donald Wynn, and Michael Wynn; along with team managers Clay Collie, Travis Pope, Torrey Strong; head coach Phillip Collie, and assistant coaches, Chris Bolen and Jon Cardwell; and

WHEREAS, the Bucks, are indeed to be praised for an enviable season and for all the hard work that made it possible; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, That in recognition of outstanding accomplishment, we most highly commend the Madison County Buckhorn Bucks of New Market, Alabama on their class 5A Basketball Championship, and it is directed that a copy of this resolution be provided to Principal Tommy Ledbetter for the purpose of appropriate presentation and school display.

Approved May 10, 1995

Time: 8:39 A.M.

Act No. 95-45 H.J.R. 33 – Reps. Hall (A), Hinshaw

HOUSE JOINT RESOLUTION

COMMENDING THE HAZEL GREEN LADY TROJANS, STATE 5A BASKETBALL CHAMPIONS.

WHEREAS, the Alabama House of Representatives most heartily congratulates and commends the Hazel Green Lady Trojans of Hazel Green, Alabama on the 1994-95 State Basketball Championship; and

WHEREAS, Coach Clay Giles and assistant Coach Laynette Coble, led the outstandingly talented team of young athletes to an

incredible and improbable victory over Phillips of Birmingham, to win their first girls state basketball title; and

WHEREAS, the top-ranked Lady Trojans ended their state championship season with a 31-2 record made possible by the outstanding efforts of each and every team member including: Amanda Stafford, Amber Jones, Krista Patterson, Shamolie Wyckoff, Lori Campbell, Malinda Edwards, Allison Davis, Nicole Neve, Tracey Walker, Candace Campbell, Robin Stafford, Sari Badgett, Beth Kerby, Leela Underwood, and team manager, Missy Cook; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, That we hereby most highly commend Coach Clay Giles and the Hazel Green Lady Trojans on the 1994-95 State 5A Basketball Championship.

BE IT FURTHER RESOLVED, That copies of this resolution be forwarded to Coach Giles, on behalf of his staff and the entire team, and for appropriate display at Hazel Green High School.

Approved May 10, 1995

Time: 8:40 A.M.

Act No. 95-46 H.J.R. 45 – Rep. Hammett

HOUSE JOINT RESOLUTION

DESIGNATING A PORTION OF U.S. HIGHWAY 29 AND COUNTY ROAD 43 IN COVINGTON COUNTY AS "THE HISTORIC THREE NOTCH TRAIL."

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the portion of U.S. Highway 29, which begins at the Escambia County/Covington County line, and proceeds northeast through the City of Andalusia, Alabama, to the Town of Heath, Alabama, and Covington County Road 43 in its entirety, are hereby named and designated, and shall henceforth and forever be known, as "The Historic Three Notch Trail."

BE IT FURTHER RESOLVED, That the proper authorities are authorized to erect and maintain appropriate signs and markers to reflect this designation.

Approved May 10, 1995

Time: 8:41 A.M.

Act No. 95-47 H.J.R. 47 – Rep. White

HOUSE JOINT RESOLUTION

COMMENDING POLICE OFFICER LARRY HAMMONDS FOR OUTSTANDING HEROISM.

WHEREAS, Poarch Creek Indian Reservation Police Officer Larry Hammonds is indeed deserving of highest commendation for his quick, decisive and courageous actions in coming to the rescue of victims of a fiery head-on collision on December 14, 1994; and

WHEREAS, while driving on U.S. Highway 31 North of Atmore, Officer Hammonds witnessed the car immediately in front of him hit a strayed cow in its path, swerve to the opposite lane, crash into an oncoming car, and burst into an inferno of flames; and

WHEREAS, Officer Hammonds, realizing the urgency of the situation, reacted swiftly and deliberately, and without regard for his own personal safety, summoning rescue units, caring for the needs of the injured, and extinguishing the flames in the burning car, using two fire extinguishers to finally subdue the fire; the woman trapped inside the car was later freed and saved by the "jaws of life"; the man in the other car had miraculously managed to crawl from the crash scene despite two broken legs; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of extraordinary heroism, highest commendation is hereby accorded Police Officer Larry Hammonds, whose valiant action exemplifies the highest degree of concern of one human being for another.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Officer Hammonds as an expression of honor and esteem.

Approved May 10, 1995

Time: 8:42 A.M.

Act No. 95-48 H.J.R. 48 – Rep. Smith

HOUSE JOINT RESOLUTION

COMMENDING THE MAPLESVILLE LADY RED DEVILS ON THE ALABAMA CLASS 1A BASKETBALL CHAMPIONSHIP.

WHEREAS, with utmost pride and pleasure, heartiest congratulations are herein extended to Coach Janet Sparks and her Maplesville Lady Red Devils on winning the 1995 State Class 1A Division Basketball Championship; and

WHEREAS, Coach Janet Sparks directed an outstandingly talented team of fine young athletes, each and every one of whom greatly contributed to their school's sensational season and the 1995 Championship: tournament MVP Lakesha Bearden, Christie Tillis, Chrissy Arnold, Amanda Johnson, Leigh Fergueson, Stacey Tillery, Vallery Barron, Kim Pryor, Beverly Smitherman, Latoya Andrews, Dana Harrison, and Kelly Carter; and

WHEREAS, the Lady Devils beat the Speake Lady Bobcats, 54-43, to capture the Class 1A State Basketball Championship after a season record of 24-2; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding accomplishments, highest commendation is hereby bestowed upon Maplesville Lady Red Devils on winning the 1995 State Class 1A Division Basketball Championship and do further direct that copies of this resolution be presented to Coach Sparks, on behalf of the team and for appropriate display at Maplesville High School.

Approved May 10, 1995

Time: 8:43 A.M.

Act No. 95-49 H.J.R. 49 – Reps. Venable, Johnson (R)

HOUSE JOINT RESOLUTION

COMMENDING THE COOSA COUNTY CENTRAL HIGH SCHOOL COUGARS ON THE 1995 STATE 4A BASKETBALL CHAMPIONSHIP.

WHEREAS, it is with sincere pride that the Alabama Legislature herein extends heartiest congratulations to the Coosa County Central High School Cougars as Alabama's 1995 State 4A Basketball Champions; and

WHEREAS, the Cougars spectacular championship victory culminated a remarkable season, showcasing the exceptional skill and talent of head coach, Joe Belyeu, who was individually honored as "Coach of the Year," and his able assistant, Coach Billy P. Williams; and

WHEREAS, it also reflected the will-to-win spirit of Champion team members Marcus Whetstone, Lamarrius Whetstone, Sherra

Whetstone (Academic All State, State Tournament MVP, and All State Team), Terrance Foster, Yata McElrath, Lapoleon Russell, Terrance Leonard (All Tournament Team), Raphaele Gilbert, Adrian Childs, Brandon Porter (All Tournament Team), Antonio Simmons (one invitational all tournament team), Fione Williams, Latarvis Norman, and Adalius Thomas (All Tournament Team, All State Team, and "Player of the Year"); and

WHEREAS, further contributing to the Cougars' success were managers, James Talton, John Talton, Diedre Caldwell, and Joey Belyeu; statistician, Kim Belyeu; and scorekeepers, Phillip Gaddis and Cynthia Lee; and

WHEREAS, the talented Cougars, who ended the season with an impressive 31-1 record, also achieved Championship status in the Coca Cola Classic, Opelika Invitational, Marble City Classic, Regional Tournament in Troy, and the State Tournament in Birmingham; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of exceptional achievement, highest commendation and congratulations are hereby accorded Coach Belyeu and the Coosa County Central High School Cougars on the 1995 State 4A Basketball Championship, and it is further directed that copies of this resolution be provided for appropriate presentation and school display.

Approved May 10, 1995

Time: 8:44 A.M.

Act No. 95-50

H.J.R. 50 – Reps. Thomas (D), Allen, Baker, Bandy, Black (L), Black (M), Box, Boyd, Burke, Buskey, Carns, Carothers, Carter, Clark (J), Clark (W), Clouse, Collins, Crigler, Curry, Dean, Dolbare, Drake, Dukes, Flowers, Ford, Fuller, Gaines, Galliher, Gaston, Gipson, Graham, Guin, Hall (A), Hall (L), Hamilton, Hammett, Haney, Hawk, Hawkins, Hayden, Hill,

Hilliard, Hinshaw, Hogan, Holmes, Hooper, Houston, Jackson, Johnson (E), Johnson (R), Jorgensen, Kennedy, Knight (A), Knight (J), Laird, Layson, Letson, Lindsey, Maull, McAdory, McClammy, McDaniel, McKee, McMillan, Melton, Millican, Minnifield, Mitchell, Moore, Morrison, Morrow, Morton, Murphree, Newton (C), Newton (D), Page, Papucci, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Pringle, Reed, Robinson, Rogers (J), Rogers (M), Sanderford, Sanderson, Seibenhener, Sims, Smith, Spratt, Starkey, Thomas (J), Townsend, Turner, Turnham, Vance, Venable, Warren, White, Willis, Wren

HOUSE JOINT RESOLUTION

HONORING LISA BRADEN FOR OUTSTANDING ACCOMPLISHMENT.

WHEREAS, it is with great pride and pleasure that the Legislature of Alabama warmly congratulates Miss Lisa Braden of Springville, Alabama, on being selected as International Varsity Cheerleader of the Year; and

WHEREAS, Miss Braden won this title at the CANAM Senior Grand Championship, held March 25-26, 1995, in Myrtle Beach, South Carolina, competing against athletes from the United States, Germany, and Canada; and

WHEREAS, the daughter of David and Paula Braden, Lisa is a senior at Springville High School, where she is a member of the award-winning Springville High School Varsity Cheerleading Squad; and

WHEREAS, Miss Braden has won other awards for outstanding ability such as Most Valuable Player of St. Clair County Cheerleaders, and was furthermore selected as one of Alabama's top ten cheerleaders; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in tribute to tremendous achievement, the Alabama Legislature hereby extends highest commendation to Miss Lisa Braden on being selected as International Varsity Cheerleader of the Year.

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to Miss Lisa Braden as evidence of our great pride and esteem.

Approved May 10, 1995

Time: 8:45 A.M.

Act No. 95-51

H.J.R. 51 – Reps. Thomas (D), Allen, Baker, Bandy, Black (L), Black (M), Box, Boyd, Burke, Buskey, Carns, Carothers, Carter, Clark (J), Clark (W), Clouse, Collins, Crigler, Curry, Dean, Dolbare, Drake, Dukes, Flowers, Ford, Fuller, Gaines, Galliher, Gaston, Gipson, Graham, Guin, Hall (A), Hall (L), Hamilton, Hammett, Haney, Hawk, Hawkins, Hayden, Hill, Hilliard, Hinshaw, Hogan, Holmes, Hooper, Houston, Jackson, Johnson (E), Johnson (R), Jorgensen, Kennedy, Knight (A), Knight (J), Laird, Layson, Letson, Lindsey, Maull, McAdory, McClammy, McDaniel, McKee, McMillan, Melton, Millican, Minnifield, Mitchell, Moore, Morrison,

Morrow, Morton, Murphree, Newton (C), Newton (D), Page, Papucci, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Pringle, Reed, Robinson, Rogers (J), Rogers (M), Sanderford, Sanderson, Seibenhener, Sims, Smith, Spratt, Starkey, Thomas (J), Townsend, Turner, Turnham, Vance, Venable, Warren, White, Willis, Wren

HOUSE JOINT RESOLUTION

COMMENDING THE SPRINGVILLE HIGH SCHOOL VARSITY CHEERLEADING SQUAD FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, it is with sincere pleasure and pride that the Alabama Legislature most heartily commends and congratulates the Springville High School Varsity Cheerleading Squad on their selection as First Alternate for Small Varsity at the CANAM Senior Grand Championship, March 25-26, 1995, in Myrtle Beach, South Carolina; and

WHEREAS, this outstanding group of young Alabamians, who performed flawlessly against entrants from the United States, Germany and Canada to claim the title, have also captured such honors as the St. Clair County Championship and 2A Varsity State Championship, and all eight members were All County Cheerleader Champions; and

WHEREAS, superbly coached by their sponsors, Laura Bailey and Peggy Jones, members of this award-winning Championship Team are: Lindsay Kennemur, Heather Chamblee, Ashley Burttram, Melissa Taylor, Rachael Russell, Kim Barrett, Heather Young (one of Alabama's Top 10 Cheerleaders), and Lisa Braden (International Varsity Cheerleader of the Year, MVP of County Cheerleaders, and one of Alabama's Top 10 Cheerleaders); now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, highest commendation is hereby bestowed upon the Springville High School Varsity Cheerleading

Squad and their sponsors, Laura Bailey and Peggy Jones, and it is further directed that copies of this resolution be provided for appropriate presentation and display, and as a measure of our tribute and esteem.

Approved May 10, 1995

Time: 8:46 A.M.

Act No. 95-52 H.J.R. 6 – Reps. Sanderford, Page

HOUSE JOINT RESOLUTION

HONORING GENERAL CARL E. MUNDY, JR., COMMANDANT UNITED STATES MARINE CORPS.

WHEREAS, it is with especial pride that the Alabama Legislature welcomes to this assemblage General Carl E. Mundy, Jr., Commandant of the United States Marine Corps, whose outstanding career and accomplishments have brought honor and acclaim to Auburn University and the State of Alabama; and

WHEREAS, General Mundy, who has served as Commandant of the United States Marine Corps since his appointment by President George Bush in 1991, is a graduate of Sidney Lanier High School in Montgomery and Auburn University, where he began his long and distinguished military career when he was commissioned a Second Lieutenant in the Marine Corps in 1957; and

WHEREAS, in early assignments from 1957 to 1967 General Mundy served aboard the aircraft carrier "Tarawa" and the cruiser "Little Rock"; as a Marine Corps Basic School and officer training instructor; operations and executive officer; and as an Intelligence Officer in the Third Marine Amphibious Force in Vietnam; and

WHEREAS, in the years to follow, General Mundy's exceptional leadership ability and military acumen led to a succession of promotions and assignments of increasing responsibility and command, including commanding officer of a Marine battalion, a Marine regiment, two Marine amphibious units and staff positions at home and abroad, and to his promotion to the rank of Brigadier General in 1982; and

WHEREAS, he was promoted to the rank of Major General and served as Director of Operations, United States Marine Corps between 1982 and 1986; assigned to the prestigious position of Deputy Chief of Staff to the Joint Chiefs of Staff and promoted to the rank of Lieutenant General in 1988; and simultaneously

assigned as Commanding General of the United States Atlantic Fleet Marine Force, the Second Marine Expeditionary Force, the Allied Command Atlantic Marine Striking Force, and of the Fleet Marine Force Europe in 1990; and

WHEREAS, over his career, General Mundy has demonstrated those finest qualities and standards of professionalism and leadership, and an unfaltering devotion to duty and country at personal risk and sacrifice for which he received the Legion of Merit, the Bronze Star Medal with Combat V, the Purple Heart, two Navy Commendation Medals and the Vietnam Cross of Gallantry; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That it is with highest commendation and tribute that we recognize and honor General Carl E. Mundy, Jr., USMC, an outstanding American of whom we are justly proud, and to whom a copy of this resolution shall be presented as a measure of our sincere regard and esteem.

Approved May 10, 1995

Time: 8:47 A.M.

Act No. 95-53 H.J.R. 14 – Reps. Boyd, Sims

HOUSE JOINT RESOLUTION

DESIGNATING ALABAMA HIGHWAY 275 AT HIGHWAY 77 IN TALLADEGA COUNTY, "THE JIMMY GRANT FREEMAN BYPASS."

WHEREAS, the Alabama Legislature notes the unselfish patriotic heroism of Jimmy Grant Freeman during the Vietnam Conflict while he was assigned by the United States Army to the Mobile Advisory Team 71 at Soc Trang, and after emergency leave volunteered to rejoin his company in Vietnam during the height of the fighting and casualties; and

WHEREAS, in 1969, Jimmy Grant Freeman fought valiantly and lost his life during a fierce Viet Cong attack against his company's camp; and

WHEREAS, Jimmy Grant Freeman was posthumously awarded the Silver Star Medal, and the Advisory Team 71 Headquarters Compound was redesignated to bear his name; and he was inducted into the prestigious Military Hall of Honor at Marion Military Institute; and

WHEREAS, our native son, Jimmy Grant Freeman made the ultimate sacrifice of his life so that we may be free; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of the valor, bravery, and patriotism of Jimmy Grant Freeman for the cause of freedom, the bypass of Alabama 275 at Highway 77 in Talladega County is designated "The Jimmy Grant Freeman Bypass" and that a copy of this resolution be forwarded to the City of Talladega and to the family of Mr. Jimmy Grant Freeman.

BE IT FURTHER RESOLVED, That the proper officials are authorized to erect and maintain appropriate signs and markers designating "The Jimmy Grant Freeman Bypass" and that a copy of this resolution be sent to the State Department of Transportation.

Approved May 10, 1995

Time: 8:48 A.M.

Act No. 95-54 H.J.R. 18 – Reps. Morrow, Hall (A), Millican, Starkey, Black (M), Hamilton

HOUSE JOINT RESOLUTION

MOURNING THE TRAGIC DEATH OF ANDREA GONZALEZ.

WHEREAS, it is with profound grief and shock that the people of Franklin County and the state have learned of the tragic death of little Andrea Gonzalez of the Tharptown Community, confirming their worst fears surrounding her suspicious disappearance in November, 1993; and

WHEREAS, Andrea Gonzalez endeared herself to all who knew and loved her, even though the child lived her brief life in fear and sadness due to the unstable and abusive environment created by her parents and stepmother; and

WHEREAS, the concerned citizens of Franklin County and Tharptown became dedicated to the task of seeking out the truth following her mysterious disappearance in 1993; and

WHEREAS, a neighbor of Andrea's, Mrs. Gayle Davis, kept the public focused on Andrea's case by organizing a candlelight vigil on March 19, 1994, never forgetting the little girl she and her family loved so much; and

WHEREAS, the Andrea Gonzalez case was the most exhausting, comprehensive, and expensive case in the law-enforcement history of the county, involving scores of local, state, and federal authorities, as well as the Texas Rangers and hundreds of volunteers; and

WHEREAS, after more than 15 months of intense investigation, Mrs. Kim Gonzalez, Andrea's stepmother, made a startling confession that she had dropped the child's dead body into Upper Bear Creek Lake after placing her in scalding water; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the members of this Legislature, and Representative Johnny Mack Morrow and Senator Roger Bedford, grievously mourn the tragic death of Andrea Gonzalez.

RESOLVED FURTHER, That a copy of this resolution be forwarded to the Franklin County Commission for permanent display in the lobby of the county courthouse along with Andrea's picture and newspaper articles which adequately tell her tragic story.

RESOLVED FURTHER, That a copy of this resolution be forwarded to the Director of the Franklin County Department of Human Resources for permanent display in a special room forever painted pink in the building housing the department along with Andrea's picture and newspaper articles which adequately tell her tragic story.

RESOLVED FURTHER, That a copy of this resolution be forwarded to the President of the University of North Alabama for permanent display at an appropriate location on the campus.

RESOLVED FURTHER, That we urge the University of North Alabama to establish a memorial fund for Andrea Gonzalez to fund a child abuse prevention and public awareness educational program at the university.

Approved May 10, 1995

Time: 8:49 A.M.

Act No. 95-55 H.J.R. 20 – Rep. Gaston

HOUSE JOINT RESOLUTION

COMMENDING VINCENT BRADLEY NEWBILL OF MOBILE, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, it is with highest praise and commendation that the Alabama Legislature recognizes Vincent Bradley Newbill of Mobile, Alabama, a young Alabamian of extraordinary achievement; and

WHEREAS, Vincent Bradley Newbill, an outstanding young man of exceptional talent and ability, is a recent graduate of Shaw High School in Mobile, where he was named Class Valedictorian and Most Outstanding Senior, and served as Class President both his junior and senior years; and

WHEREAS, he was also captain of the football and baseball teams, and a member of the Mobile County All Area Baseball Team for 6A Area II and the Lions Club All Star Baseball Team; and

WHEREAS, additionally, he was a member of the National Honor Society, Geometry, Algebra II and Trigonometry Teams, Scholars Bowl, Scott Hi Q and Boys State, and is an active member of Alpine Hills Church of Christ; Vincent further was a member of the marching, symphonic and jazz bands and received the Superior Medal in solo as well as ensemble awards; and

WHEREAS, Vincent has amassed innumerable awards and honors during his high school years including Midtown Sertoma Club 1994 Student-Athlete of the Year for Mobile County, Crichton Optimist Club Scholar Athlete, Mobile Rotary Club Youth Merit Award, Bryant-Jordan Regional Achievement Award, International Juvenile Officer Association Award, Scholar Athlete from the Army Reserve Award, Student Academic Award from the Marines, Student Gold Apple Award from the Governor of Alabama, WPMI Student of the Week, and nomination to the 1994 Mobile Register Top 10 Academic Team and Birmingham Post-Herald Regional Alabama All Star Academic Team; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, we hereby most highly commend Vincent Bradley Newbill of Mobile, Alabama, for whom a copy of this resolution shall be provided, with warm best wishes for every future success.

Approved May 10, 1995

Time: 8:50 A.M.

Act No. 95-56 H.J.R. 21 – Rep. Gaston

HOUSE JOINT RESOLUTION

COMMENDING DOROTHY A. GILROY KNAPP FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, it is with highest commendation, that the Alabama Legislature recognizes the many and outstanding professional and community accomplishments of Dorothy A. Gilroy Knapp of Mobile, Alabama, and

WHEREAS, Dorothy A. Gilroy Knapp, a graduate of the Mobile public schools, Providence Hospital School of Nursing, the Universities of Mobile and South Alabama, has been employed and held every position in nursing from student to administration, including Director of Nursing at Greenlawn Hospital in Atmore, during her 49 years of nursing; and

WHEREAS, she has served in leadership in numerous health related and civic organizations such as chairman and charter member of the Alabama State Nurses Association, American Red Cross, American Heart Association, American Diabetes Association, Mobile Arts Council, and American Cancer Society to name just a few; and

WHEREAS, because of her exemplary high standards of professionalism, she has earned the respect and admiration of her colleagues, and has received numerous awards of excellence including the Professional Dedication Award from Mobile College, the Lillian B. Smith Award from the Alabama State Nurses Association, the Lamplighter Award from the Alabama League for Nursing, the National League for Nursing Centennial Leadership Award, and the Outstanding Alumnus Field of Healthcare from the University of Mobile; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding dedication and achievement in the field of nursing, we hereby most highly commend Dorothy A. Gilroy Knapp of Mobile, whom we hold in highest esteem and for whom a copy of this resolution shall be provided.

Approved May 10, 1995

Time: 8:51 A.M.

Act No. 95-57 H.J.R. 23 – Reps. Gipson, Smith

HOUSE JOINT RESOLUTION

COMMENDING JIMMY SANFORD OF PRATTVILLE, ALABAMA.

WHEREAS, it is with highest commendation that the Alabama Legislature notes the election of Jimmy Sanford of Prattville, Alabama, as the 44th president of the National Cotton Council (NCC), the central organization for the U. S. cotton industry; and

WHEREAS, Mr. Sanford, who serves as president and chairman of Home Place Farms, a diversified farming enterprise, had previously served NCC in such capacities as treasurer, vice chairman of the Research and Education Program Committee, and chairman of the Industry/Government Research Committee, and was serving as chairman of The Cotton Foundation, prior to his election as president; he also participated in several industry trade missions to Europe and the Far East for Cotton Council International and USDA's Foreign Agricultural Service; and

WHEREAS, a graduate of Auburn University with a master's degree in economics, Mr. Sanford provides invaluable leadership and support in a number of agribusiness organizations, including the Alabama Agribusiness Council, Alabama Cotton Commission, Autauga County Farmers Federation and Autauga Quality Cotton Association, and within the community, serving on the advisory boards of three universities and in civic and cultural involvements; and

WHEREAS, Mr. Sanford and his wife, the former Dot Hardage, are the proud parents of three children, Susan, Catherine and Will; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That upon his election as president of the National Cotton Council, and in tribute to outstanding contributions to the cotton industry and agriculture in our state and nation, we hereby most highly commend Jimmy Sanford of Prattville, Alabama, for whom a copy of this resolution shall be provided.

Approved May 10, 1995

Time: 8:53 A.M.

Act No. 95-58 H.J.R. 22 – Rep. Gaston

HOUSE JOINT RESOLUTION

COMMENDING VICTOR A. MCSWAIN, P.E. OF MOBILE, ALABAMA, FOR OUTSTANDING ACHIEVEMENT AND SERVICE.

WHEREAS, the Legislature of Alabama, in highest commendation, recognizes Victor A. McSwain, a prominent Mobilian who has greatly achieved in his chosen field, and who continues in dedicated service and support of the Mobile community and to the City of Mobile as Transportation and Planning Director; and

WHEREAS, Mr. McSwain earned his B.S. and Masters degrees in Civil Engineering from the University of South Alabama and Pennsylvania State University, respectively, and served as Traffic Engineer for the City of Mobile for seventeen years prior to assuming his present position in 1992; and

WHEREAS, Mr. McSwain is a member of Tau Beta Pi Engineering Honor Society; received the outstanding Transportation Engineer Award for 1987; and was named Transportation Engineer of the Year in 1994; and

WHEREAS, in significant contributions to the community, Mr. McSwain has served as president of the Crichton Optimist Club and of the University of South Alabama Alumni Association, and is an active and involved member of the Mobile City Planning Commission Planning Committee, Main Street Board of Directors, and University of South Alabama College of Engineers Industrial Advisory Board; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of distinguished professional achievement and exemplary service to the City of Mobile and to the state, we hereby extend highest commendation to Victor A. McSwain, whom we hold in highest personal regard and for whom a copy of this resolution shall be provided.

Approved May 10, 1995

Time: 8:52 A.M.

Act No. 95-59 H.J.R. 24 – Rep. Gipson

HOUSE JOINT RESOLUTION

COMMENDING THE AUTAUGAVILLE HIGH SCHOOL EAGLES AS THE 1995 STATE CLASS 1A BASKETBALL CHAMPIONS.

WHEREAS, it is with sincere pleasure that the Alabama Legislature extends highest commendation and heartiest congratulations to the Autaugaville High School Eagles Basketball Team on their capture of the 1995 State Class 1A Championship Title, its second state title in the past five years; and

WHEREAS, under the talented leadership of Head Coach Calvin Hunter, most ably assisted by Coach Norman Douglas, the Eagles successfully defeated the St. Jude Pirates, 71-66, in final round play to secure the Title and finish the season with an impressive 28-3 record; and

WHEREAS, greatly contributing to an outstanding team effort were Champion Eagles Norman "Dale" Golson, Reginald Brown, Chris Love, Reshando Carroll, Darvin Dickerson, Marcus Steele, Jerry Broadnax, Rico Love, Larry Patrick, Mario Burns, Andre Howard and Tobe Nowak; and

WHEREAS, this outstanding group of young men have indeed brought immense happiness and pride to their community and state, and in recognition thereof the team members, the members of the coaching staff, and all of those individuals associated with the team are deserving of special public recognition; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Coach Calvin Hunter and the Autaugaville Eagles as the 1995 State 1A Basketball Champions, and do further direct that copies of this resolution be provided for appropriate presentation and display.

Approved May 10, 1995

Time: 8:54 A.M.

Act No. 95-60 H.J.R. 9 – Reps. Kennedy, Turner, Buskey, Clark (W), Mitchell, Gaston, Dean, Pringle, Crigler, Box

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF BISHOP WILLIAM MILTON SMITH OF MOBILE, ALABAMA.

WHEREAS, it is with profound sorrow and regret that the Alabama Legislature records the death of Bishop William Milton Smith of Mobile, Alabama, on April 12, 1995; and

WHEREAS, elected as one of the 100 Most Influential Blacks in America by Ebony Magazine for five consecutive years, Bishop

Smith served in spiritual leadership of the African Methodist Episcopal Zion Church of Mobile for nearly sixty years, as pastor and, from his election in 1960, as Bishop for the next thirty-two years, the longest tenure of service of any living Bishop in the A.M.E. Zion Church; and

WHEREAS, a native of Baldwin County, Bishop Smith received his B.S. degree from Alabama State University, and pursued further studies at Livingstone College, Hood Theological Seminary, Tuskegee University, Perkins School of Theology, and Southern Methodist University; and

WHEREAS, early in his ministry, Bishop Smith served such Alabama pastorates as St. Thomas in Perdido, Alabama, Zion Star, Atmore, Zion Fountain #2, Brewton, Ebenezer, Montgomery, and Big Zion, Mobile; and

WHEREAS, over the years, in extended service to the ministry, Bishop Smith served conferences both throughout the United States and abroad; he also held numerous positions of leadership in God's service, including positions with the World Methodist Council as Chairman of the Ecumenical Commission, as President of the North American Section, and as a member of the Executive Board, to name but a few; and

WHEREAS, Bishop Smith also gave generously to his community, providing leadership and support to countless organizations including Mobile United, of which he was a founder, United Fund of Mobile, Mayor's Commission on Progress, Board of Trustees of Alabama State University, Mobile Area Chamber of Commerce, West Mobile Kiwanis, the National N.A.A.C.P., and the Mobile County Hospital Board, among others; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the death of Bishop William Milton Smith of Mobile, and extend our heartfelt sympathy to his beloved wife, Ida Mae Anderson Smith; to his daughter, three grandchildren, and two great grandchildren; and to other family members for whom a copy of this resolution of sincere condolence shall be provided.

Approved May 10, 1995

Time: 8:55 A.M.

Act No. 95-61 — H.J.R. 17 – Reps. Morrow, Hall (A), Page, Drake, Starkey, Hill, Millican, Knight (A), Hawk, Morrison

HOUSE JOINT RESOLUTION

URGING THE UNITED STATES CONGRESS TO LEGISLATIVELY RESOLVE THE "NOTCH BABY" SOCIAL SECURITY INEQUITY.

WHEREAS, certain Social Security recipients born between 1917 and 1921 are receiving reduced benefits as a result of 1977 congressional legislation that created the wage-indexed computation method; and

WHEREAS, "Notch Babies" who reached age 62 between 1979 and 1983 have been forced to accept a substantial decrease in benefits under the new computation method as opposed to what their benefits would have been under the old method used prior to 1977; and

WHEREAS, Congress has allowed this inequity to continue without resolution since it was first brought to their attention in 1982; and

WHEREAS, Congress established a Commission on the Social Security "Notch" Issue which concluded that the Social Security recipients born between 1917 and 1921 should continue to receive the reduced benefits as a result of 1977 congressional legislation that created the wage-indexed computation method; and

WHEREAS, Congress should disregard the conclusion of the Commission because this conclusion continues the inequities that the 1977 congressional legislation created; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do hereby urge and implore the Congress of the United States to take the necessary legislative action during its 1995 session to correct the "Notch Baby" Social Security inequity.

BE IT FURTHER RESOLVED, That a copy of this resolution shall be sent to every member of the Alabama congressional delegation.

Approved May 10, 1995

Time: 8:56 A.M.

Act No. 95-62

H.J.R. 30 – Reps. Hamilton, Hammett, Warren, Ford, Starkey, Turnham, Laird, Carothers, Parker (T), Newton (C), Layson, Johnson (R), Millican, Reed

HOUSE JOINT RESOLUTION

REQUESTING THE ALABAMA SECRETARY OF STATE TO FURNISH ONE COPY OF THE BOUND ACTS AND ONE COPY OF THE BOUND JOURNALS UPON REQUEST TO MEMBERS OF THE ALABAMA LEGISLATURE.

WHEREAS, pursuant to Section 29-1-12 of the Code of Alabama 1975, the Secretary of the Senate and the Clerk of the House of Representatives are responsible for checking, comparing, completing, and filing the journals of their respective houses in the Office of the Secretary of State; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That, only upon written request of a member of the Legislature, the Alabama Secretary of State shall furnish one copy of the bound acts and one copy of the bound journals to that member.

BE IT FURTHER RESOLVED, That copies of this resolution be given to the Secretary of State, the Secretary of the Senate, and the Clerk of the House of Representatives.

Approved May 10, 1995

Time: 8:57 A.M.

Act No. 95-63 H.J.R. 70 – Rep. Hammett

HOUSE JOINT RESOLUTION

RELATIVE TO MEETING DAYS.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That when the two houses adjourn Thursday, May 4, 1995, they adjourn to meet again on Tuesday, May 9, 1995, and when they adjourn on Tuesday they adjourn to meet again on Thursday, May 11, 1995, and when they adjourn on Thursday they adjourn to meet again on Tuesday May 16, 1995, and when they adjourn on Tuesday they adjourn to meet again on Wednesday, May 17, 1995, and when they adjourn on Wednesday they adjourn to meet again on Thursday, May 18, 1995.

Approved May 10, 1995

Time: 8:58 A.M.

Act No. 95-64 S.J.R. 28 – Senators Lipscomb, Smith, Hale, Amari, Freeman, Clay, Mitchem,

Figures, Adams, Davidson, Mitchell, Ghee, Little, Windom, Waggoner, Armistead, Bailey, Hill, Butler, Dial, Bedford, Smitherman, Myers, Poole, Barron, Biddle, Denton, Dixon, Escott-Russell, Langford, Lindsey, McClain, Roberts, Sanders, and Steele

SENATE JOINT RESOLUTION

PROVIDING FOR A RECESS OF BOTH HOUSES OF THE LEGISLATURE FROM NOON UNTIL 1:30 P.M. ON MAY 4, 1995, TO OBSERVE THE 1995 NATIONAL DAY OF PRAYER.

WHEREAS, prayer is the mainspring of the American spirit, a fundamental tenet of our people since before the Republic was founded; a year before the Declaration of Independence in 1775, the Continental Congress proclaimed the first National Day of Prayer as the initial positive action they asked of every colonist; and

WHEREAS, more than two hundred years ago in 1783, the Treaty of Paris officially ended the long, weary Revolutionary War during which a National Day of Prayer had been proclaimed every spring for eight years; when peace came, the National Day of Prayer was forgotten; for almost half a century, as the Nation grew in power and wealth, we put aside this deepest expression of American belief—our national dependence on the Providence of God; and

WHEREAS, it took the tragedy of the Civil War to restore a National Day of Prayer; as Abraham Lincoln said, "Intoxicated with unbroken success, we have become too self-sufficient to feel the necessity of redeeming and preserving grace, too proud to pray to the God that made us"; and

WHEREAS, revived as an annual observance by Congress in 1952, the National Day of Prayer has become a great unifying force for our citizens who come from all the great religions of the world; prayer unites people; this common expression of reverence heals and brings us together as a Nation and we pray it may one day bring renewed respect for God to all the people of the world; and

WHEREAS, from General Washington's struggle at Valley Forge to the present, this Nation has fervently sought and received

divine guidance as it pursued the course of history; this occasion provides our Nation with an opportunity to further recognize the source of our blessings, and to seek His help for the challenges we face today and in the future; and

WHEREAS, Thursday, May 4, is the 1995 National Day of Prayer, which will be observed by citizens gathering for prayer at our churches, city halls, and state capitols throughout Alabama and the Nation at 12:00 noon local time; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That both houses of the Legislature shall recess on Thursday, May 4, 1995, from 12:00 noon until 1:30 p.m. in support of the National Day of Prayer. Prayer will be offered on the steps of the Capitol from noon until 1:00 p.m.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Governor James, President Pro Tem Figures, and Speaker Clark, that they may know of our feelings and desires concerning this matter.

Approved May 10, 1995

Time: 9:00 A.M.

Act No. 95-65 S.J.R. 29 – Senator Freeman

SENATE JOINT RESOLUTION

REQUESTING AND STRONGLY RECOMMENDING THE ALABAMA BUILDING RENOVATION FINANCE AUTHORITY TO PROVIDE PERMANENT SECURITY FOR ALL EXTERIOR ENTRANCES AND ACCESSES OF THE ALABAMA STATE HOUSE BUILDING.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Alabama Building Renovation Finance Authority is requested and strongly recommended to provide permanent security at each exterior entrance and access to the Alabama State House Building in order to ensure the safety, health, and security of those persons located within the State House, and the security of the property, facilities, and equipment of the State House.

RESOLVED FURTHER, That a copy of this resolution be sent to the Governor, Finance Director, and the State Treasurer, the board of directors of the authority.

Approved May 10, 1995

Time: 9:01 A.M.

Act No. 95-66 S.J.R. 31 – Senator Davidson

SENATE JOINT RESOLUTION

DENOUNCING THE RECENT ACT OF TERRORISM IN OKLAHOMA CITY, OKLAHOMA.

WHEREAS, it is with heavy hearts that the Legislature of Alabama notes the recent tragedy in Oklahoma City, Oklahoma; and

WHEREAS, on the morning of April 19, 1995, tragedy struck the heartland of America when a car bomb exploded, demolishing the Alfred Murrah Federal Building in Oklahoma City, and killing and injuring untold numbers, including many innocent children; and

WHEREAS, it is inconceivable that an act such as this could occur within the confines of our country; we denounce this brutal and cowardly act, and call upon the proper authorities to act swiftly and deliberately to assure that the individual or individuals responsible are caught and brought to justice; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply troubled and saddened by this deplorable incident and extend our gratitude and admiration to those who are working tirelessly and diligently in the rescue and recovery of the dead and injured; we further express our deepest heartfelt sympathy to the families of these innocent and unsuspecting victims.

Approved May 10, 1995

Time: 9:02 A.M.

Act No. 95-67 S.J.R. 32 – Senator Little

SENATE JOINT RESOLUTION

COMMENDING THE LEE-SCOTT ACADEMY FOOTBALL TEAM OF AUBURN, ALABAMA, AS THE 1994 STATE CLASS 3A CHAMPIONS.

WHEREAS, it is with heartiest congratulations that the Alabama Legislature commends the football team of Lee-Scott Academy of Auburn, Alabama, on the spectacular success of the 1994 football season and on its achievement in state competition; and

WHEREAS, under the outstanding leadership of Head Coach, Joe Wilson, and the entire football staff, Lee-Scott Academy finished the regular season with an impressive record of 12-1; and

WHEREAS, following the regular season, Lee-Scott Academy won the Alabama Independent Athletic Association State Championship for 3A schools; and

WHEREAS, these accomplishments are a direct result of the fine coaching staff, the talented and hardworking athletes, and the enthusiastic fans of Lee-Scott Academy and the Auburn community; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we enthusiastically commend the Boys Varsity Football Team of Lee-Scott Academy of Auburn, Alabama, on its 3A Championship.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Lee-Scott Academy for proper presentation and display.

Approved May 10, 1995

Time: 9:03 A.M.

Act No. 95-68 S.J.R. 33 – Senators Waggoner, Biddle and Amari

SENATE JOINT RESOLUTION

HONORING THE CHIROPRACTIC PROFESSION ON THE OCCASION OF ITS CENTENNIAL ANNIVERSARY.

WHEREAS, it is with highest commendation that the Alabama Legislature recognizes the chiropractic profession on the occasion of its Centennial Anniversary, September 18, 1995; and

WHEREAS, the chiropractic profession was founded on September 18, 1895, by Daniel David Palmer in Davenport, Iowa, and today is practiced by doctors of chiropractic throughout the world, including 50,000 in the United States alone; and

WHEREAS, contemporary standards in chiropractic education, research, and practice have led to an ever increasing acceptance of the benefits of chiropractic health care by both the general public and health care community and, each year, millions of Americans choose chiropractic health care for the restoration and maintenance of their health by natural methods rather than through the use of drugs or surgery; now therefore;

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That it is with great respect and admiration for the practice of chiropractic and the relief it engenders to all its recipients that we commend and congratulate the chiropractic profession in the celebration of its 100th Year Anniversary.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to the Chiropractic Centennial Foundation as an expression of our congratulations on this momentous occasion.

Approved May 10, 1995

Time: 9:04 A.M.

Act No. 95-69 S.J.R. 34 – Senator Little

SENATE JOINT RESOLUTION

HONORING JACK L. WALTON FOR OUTSTANDING SERVICE.

WHEREAS, it is with great pride and esteem that the Alabama Legislature warmly congratulates Mr. Jack L. Walton on the occasion of his retirement as East Alabama Area Supervisor of the Alabama State Employment Service, Department of Industrial Relations; and

WHEREAS, supervisor of 10 Employment Service Offices, 7 Unemployment Security Offices, and 9 Branch Employment Service Offices throughout 18 counties, Jack L. Walton will complete 51 years of service to the State of Alabama on May 1, 1995, where he has played a vital role in the placing of over 200,000 citizens in jobs, affecting nearly every household in Lee County; and

WHEREAS, as an appointee of the Hunt Administration, Mr. Walton initiated the consolidation of the Employment and Unemployment Service Offices throughout Alabama, served on the Alabama Improvement Committee at Auburn University in Montgomery, and was a member of the Governor's Committee on Employment of People with Disabilities; and

WHEREAS, Jack L. Walton has been involved in countless activities which have been instrumental in the development of the community, such as Chairman of the Opelika and Lee County Blood Programs, President of the Opelika Lions Club, State Chapter President of the International Association of Personnel in Employment Security, Advisory Board Member of Southern Union State Community College, and others too numerous to mention; and

WHEREAS, a native of Chambers County, and a member of Trinity United Methodist Church in Opelika, Alabama, Jack L. Walton is the devoted husband of Betty Walton, and they are the proud parents of two sons and grandparents of three; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition

of 51 years of service to the State of Alabama, the Legislature of Alabama hereby extends highest commendation to Jack L. Walton on the occasion of his retirement, and furthermore directs that a copy of this resolution be presented as evidence of our appreciation and utmost esteem.

Approved May 10, 1995

Time: 9:05 A.M.

Act No. 95-70 S.J.R. 35 – Senator Barron

SENATE JOINT RESOLUTION

NAMING THE LYCEUM BUILDING AT NORTHEAST ALABAMA STATE COMMUNITY COLLEGE, "THE TOM BEVILL LYCEUM BUILDING."

WHEREAS, Congressman Tom Bevill has served with unequaled distinction as a member of the U. S. House of Representatives for the Alabama Fourth Congressional District since first being elected on November 8, 1966; and

WHEREAS, with unusual ability and total dedication to his country and constituents, he has served as chairman and ranking member of many prestigious committees and subcommittees during his congressional tenure; and

WHEREAS, his leadership and knowledge and respect of his peers allowed him to lead the drive and cause the Tennessee-Tombigbee Waterway to become a real legacy for his constituents, all Alabamians, and the nation; and

WHEREAS, Mr. Bevill has initiated the funding for a more than significant number of major facilities for Alabama colleges, including all three University of Alabama campuses in Tuscaloosa, Birmingham, and Huntsville, as well as the Two-Year College System in Alabama; and

WHEREAS, because of his leadership, uncanny knowledge of legislative processes, a respect of peers, devotion to duty and making government work for the people he has been called one of the top ten most powerful in Washington by many organizations, including TIME magazine; and

WHEREAS, Congressman Bevill has been the keynote speaker for many public gatherings and the ancient Greeks erected fine structures to house distinguished lecturers, one of which was the Lyceum in Athens where Aristotle lectured; and

WHEREAS, the President of Northeast Alabama State Community College requests and the Alabama Legislature recommends that Congressman Tom Bevill be recognized in a special way for his significant contributions to Northeast Alabama State Community College, to the Alabama College System, and for the effort to provide better opportunities for a greater Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Alabama Legislature designates the Lyceum Building at Northeast Alabama State Community College "The Tom Bevill Lyceum Building," in recognition of Mr. Bevill's outstanding service to the State of Alabama, the Alabama College System, and to Northeast Alabama State Community College.

Approved May 10, 1995

Time: 9:06 A.M.

Act No. 95-71 S.J.R. 5 – Senator Freeman

SENATE JOINT RESOLUTION

COMMENDING THE HAZEL GREEN LADY TROJANS ON THE 1994-1995 STATE CLASS 5A BASKETBALL CHAMPIONSHIP.

WHEREAS, the Alabama Legislature herein extends heartiest congratulations to the Hazel Green Lady Trojans as Alabama's 1995 State Class 5A Champions; and

WHEREAS, amid the supportive cheers of fans and cheerleaders, and with a competitive will-to-win spirit, the top-ranked Lady Trojans came from behind in the second half of tournament play, defeating the Hillcrest-Evergreen Lady Jaguars 68-61, to capture their first state championship title, and finish the season with a remarkable 31-2 record; and

WHEREAS, the Lady Trojans, who accomplished this feat under the capable direction of Head Coach Clay Giles, ably assisted by Coach Laynette Coble and Manager Missy Cook, are Amanda Stafford, Amber Jones, Krista Patterson, Shamolie Wyckoff, Lori Campbell, Malinda Edwards, Allison Davis, Nicole Neve, Tracey Walker, Candace Campbell, Robin Stafford, Shari Badgett, Beth Kerby, and Leela Underwood; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, we hereby most highly commend the Champion Hazel Green Lady Trojans, Coach Clay and his entire

staff, and direct that a copy of this resolution be provided for appropriate presentation and display.

Approved May 12, 1995

Time 10:00 A.M.

Act No. 95-72 S.J.R. 6 – Senator Freeman

SENATE JOINT RESOLUTION

COMMENDING THE MADISON COUNTY BUCKHORN HIGH SCHOOL BUCKS ON THEIR STATE 5A BASKETBALL CHAMPIONSHIP.

WHEREAS, it is with utmost pride and pleasure that the Legislature of Alabama herein extends heartiest congratulations to Coach Phillip Collie and his Madison County Buckhorn Bucks on their 1994-1995 Class 5A Basketball Championship; and

WHEREAS, the Buckhorn's dream came true by virtue of an outstanding victory in double over-time, 75-69 over the Phillips Red Raiders, to win their first Class 5A title and their second state title in five years; and

WHEREAS, this season, the Bucks Head Coach Phillip Collie, assisted by Coaches Chris Bolen and Jon Cardwell, directed an outstandingly talented team of fine young athletes, each and every one of whom greatly contributed to their school's sensational season and the 1994-95 Championship: Maurice Baker, Devin Beasley, Kyle Clemons, Ben Cole, Marcus Davidson, Gerald Dillard, Chauncey Ford, Greg, Griffin, John Hill, Darwin Hobbs, Tony Leslie, Madrae Scruggs, Donald Wynn, and Michael Wynn, along with team managers Clay Collie, Travis Pope, and Torrey Strong; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding accomplishment, we hereby bestow highest commendation upon Buckhorn High School on the 1994-1995 Alabama Class 5A Basketball Championship, and it is directed that a copy of this resolution be provided to Principal Tommy Ledbetter for the purpose of appropriate presentation and school display.

Approved May 12, 1995

Time: 10:01 A.M.

Act No. 95-73 S.J.R. 36 – Senator Windom

SENATE JOINT RESOLUTION

RECOGNIZING ALABAMA BANKERS FOR OUTSTANDING CONTRIBUTIONS TO THE ALABAMA COMMUNITY.

WHEREAS, The Alabama Bankers Association and the Alabama League of Savings Institutions declared the week of April 17-21, 1995, as Alabama Community Reinvestment Week to create and strengthen the awareness of programs enacted by financial institutions across the State to better serve the needs of our communities; and

WHEREAS, through civic activities, public education and awareness on financial matters, and contributions to the development of affordable housing and small business enrichment, Alabama bankers continue the tradition of community involvement and assistance in situations of need which the forefathers of the banking industry began more than 100 years ago; and

WHEREAS, Alabama bankers, through a proven record of safe, strong lending practices, have assisted hundreds of thousands of individuals in achieving their goals and have rejuvenated economies across our state, thereby improving the quality of life for all Alabamians; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That on the occasion of Alabama Community Reinvestment Week, in recognition of outstanding contributions to the Alabama community, and for their continuing efforts to assure that our state and her people continue to grow and prosper, we hereby most highly commend the Alabama Bankers Association, the Alabama League of Savings Institutions and the many dedicated directors, officers and employees of Alabama's financial institutions, and direct that a copy of this resolution be provided as a measure of our gratitude and esteem.

Approved May 12, 1995

Time: 10:02 A.M.

Act No. 95-74 S.J.R. 37 – Senator Windom

SENATE JOINT RESOLUTION

COMMENDING HOLLINGER'S ISLAND SCHOOL OF MOBILE, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, it is with highest honor and accord that the Legislature of Alabama recognizes Hollinger's Island Elementary School of Mobile, Alabama, as a recipient of the United Earth Youth Earth Service Award to be presented at inaugural award ceremonies at the National Aquarium in Baltimore, Maryland, May 11, 1995; and

WHEREAS, Hollinger's Island School was one of only five youth groups chosen from participants around the country to receive the prestigious award for outstanding efforts on the "Give Water a Hand," project, an environmental education initiative begun in 1994, and designed by United Earth to engage and encourage young people in environmental community service; and

WHEREAS, United Earth was founded in 1974 by Claes Nobel, descendent of Nobel Prize creator Dr. Alfred Nobel, and is a non-profit organization composed of more than 20 national agencies and organizations; and

WHEREAS, as recipients of this notable award, this exceptional group of young people have brought honor and acclaim to their school, community, and state, and are indeed deserving of public recognition and tribute; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, we hereby most highly commend and congratulate the students, faculty and staff of Hollinger's Island School, Mobile, Alabama, and do further direct that a copy of this resolution be provided for appropriate presentation and school display.

Approved May 12, 1995

Time: 10:03 A.M.

Act No. 95-75

S.J.R. 39 – Senators Denton, Adams, Amari, Armistead, Bailey, Barron, Bedford, Biddle, Butler, Clay, Davidson, Dial, Dixon, Escott-Russell, Figures, Freeman, Ghee, Hale, Hill, Langford, Lindsey, Lipscomb, Little, McClain, Mitchell, Mitchem, Myers, Poole,

Roberts, Sanders, Smith,
Smitherman, Steele,
Waggoner, and Windom

SENATE JOINT RESOLUTION

COMMENDING G. MACK ROBERTS FOR OUTSTANDING SERVICE.

WHEREAS, it is with great pleasure and pride that the Alabama Legislature recognizes Mr. G. Mack Roberts for his many years of dedicated service to the Alabama Highway Department, renamed the Alabama Department of Transportation in 1993; and

WHEREAS, a native of Cherokee County, Alabama, born April 30, 1936, Mr. Roberts has most recently served as the Director of the Alabama Department of Transportation beginning with his appointment by former Governor Jim Folsom on June 4, 1993; and

WHEREAS, serving the Department of Transportation since 1956, Mr. Roberts was a District Engineer in Gadsden, State Road and Bridge Maintenance Engineer, Project Engineer, and furthermore held such positions as Assistant Director of the Alabama Highway Department under former Governors George Wallace and Guy Hunt, and Director of the Alabama Highway Department under Governor Guy Hunt in 1993; and

WHEREAS, active in such organizations as American Society of Engineers, Civitan Civic Club, and State of Alabama Aeronautics Commission, G. Mack Roberts has served as president of the Southeastern Association of State Highway and Transportation Officials (SASHTO), vice-president of the American Association of State Highway and Transportation Officials (AASHTO), and president of the Alabama Industrial Access Corporation; and

WHEREAS, G. Mack Roberts received his education from Jacksonville State University, and the University of Alabama at Birmingham; he and his wife, Dian Ford, are the proud parents of four children, and are devoted members of First United Methodist Church in Montgomery, Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of 39 years of dedicated service to the Alabama Department of Transportation, we hereby accord highest commendation and sincerest appreciation to G. Mack Roberts, and furthermore direct that a copy of this resolution be provided as evidence of our highest, personal regard and tribute.

Approved May 12, 1995

Time: 10:04 A.M.

Act No. 95-76

S.J.R. 40 – Senators Smith, Dial, Butler, Amari, Mitchem, Smitherman, Waggoner, Adams, Hill, Armistead, Poole, Hale, Denton, Myers, Bedford, Dixon, Little, Barron, Biddle, Freeman, Clay, Steele, Davidson, Ghee, McClain, Bailey, Windom, and Lipscomb

SENATE JOINT RESOLUTION

EXPRESSING SUPPORT FOR JUDGE ROY MOORE.

WHEREAS, it has come to our attention that Judge Roy Moore of the 16th Judicial Circuit is currently being sued by the American Civil Liberties Union pursuant to a First Amendment complaint under the Freedom of Religion Clause for the display of the Ten Commandments and for having prayer before convening the court; and

WHEREAS, the distorted interpretation of the First Amendment by the United States Supreme Court has evolved from a separation-of-church-and-state doctrine to an almost exclusively anti-religion-in-any-form doctrine, which is certainly not in keeping with the philosophies and practices of the Framers of the Constitution; and

WHEREAS, many of the basic covenants found in the Ten Commandments, such as "Thou shalt not kill," "Thou shalt not steal," and "Thou shalt not bear false witness against thy neighbor" are found at the very core of our criminal justice system; and

WHEREAS, this nation was founded on the concept that each individual should be free to reasonably express his or her moral, spiritual, or religious convictions; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we support Judge Roy Moore's right to display the Ten Commandments and to have prayer before convening court.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to him to express our support.

Approved May 12, 1995

Time: 10:05 A.M.

Act No. 95-77 S.J.R. 41 – Senators Myers and Figures

SENATE JOINT RESOLUTION

RECOGNIZING MOBILE AREA WATER AND SEWER SERVICE AND DESIGNATING NATIONAL DRINKING WATER WEEK.

WHEREAS, May 7 through 13, 1995, is National Drinking Water Week across the United States of America; and

WHEREAS, on May 10, 1995 in Mobile, the Mobile Area Water and Sewer Service will be named the Number One Large Water Supplier in the United States Environmental Protection Agency Region IV and will receive the Public Water System Excellence Award for 1995, presented by Deputy Administrator of EPA Patrick Tobin; and

WHEREAS, The Board of Commissioners of the Mobile Area Water and Sewer Service and the entire staff are to be commended for this honor which they are to receive; and

WHEREAS, During National Drinking Water Week, it is appropriate that we recognize National Drinking Water Week in Mobile, Mobile County, and the State of Alabama; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most heartily commend the Mobile Area Water and Sewer Service and designate May 7 through 13, 1995 as National Drinking Water Week in Mobile, Mobile County, and Alabama.

RESOLVED FURTHER, That a copy of this resolution be sent to the Board of Commissioners of the Mobile Area Water and Sewer Service as an expression of our sincere pride and appreciation.

Approved May 12, 1995

Time: 10:06 A.M.

Act No. 95-78 S.J.R. 43 – Senator Mitchem

SENATE JOINT RESOLUTION

COMMENDING MAYLOND T. BISHOP OF ARAB, ALABAMA, FOR DISTINGUISHED SERVICE.

WHEREAS, on May 11, 1995, Maylond T. "Tommy" Bishop of Arab, Alabama, will be presented the Distinguished Service Award

and, on this momentous occasion, the Alabama Legislature wishes to recognize and honor him for his distinguished service to law enforcement; and

WHEREAS, over the years, Sergeant Tommy Bishop enjoyed a successful tenure in law enforcement until, without warning, his promising career was suddenly and abruptly cut short by a tragic incident on July 16, 1993; and

WHEREAS, Sergeant Bishop began his career in public service in 1978 as a reserve deputy for the Marshall County Sheriffs Department, followed by a period of service with the Arab, Alabama Rescue Squad, where he served as chief for several years; and

WHEREAS, he joined the Guntersville Police Department in 1989, where he served as a patrolman and in the investigation and warrant divisions, and rose to the rank of sergeant and as supervisor of the night shift by 1993; and

WHEREAS, tragically, shortly after his promotion, while responding to a domestic violence call, Sergeant Bishop was struck from behind by an assailant's bullet which lodged in his spine, paralyzing him from the waist down; and

WHEREAS, through the difficult days to follow Sergeant Bishop has been sustained and blessed by the love and support of his devoted wife of 26 years, Mary Ann, his son, Brian and daughter-in-law, Lori, and by his scores of friends and working associates; and

WHEREAS, Tommy Bishop is indeed a true exemplar of the brave and dedicated law enforcement officer who in the line of duty willingly places his own life at risk in his commitment to the protection, safety and well-being of his fellow citizens, and he is especially deserving of public recognition; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in deepest gratitude and tribute to distinguished service to the Guntersville/Marshall County community and to the citizens of our state, highest commendation is hereby accorded Maylond T. "Tommy" Bishop of Arab, Alabama, for whom a copy of this resolution shall be provided.

Approved May 12, 1995

Time: 10:07 A.M.

Act No. 95-79 H.J.R. 134 – Rep. Flowers

HOUSE JOINT RESOLUTION

COMMENDING THE ALABAMA DIETETIC ASSOCIATION.

WHEREAS, the health of Alabama's citizens is of primary importance to the members of the Alabama Legislature; and

WHEREAS, we realize the importance of a good diet in developing the minds and bodies of Alabama's children, our work force, and our senior citizens; and

WHEREAS, we appreciate the contribution that Alabama's professional nutrition and dietetic specialists make to the good health of the people of the state of Alabama; and

WHEREAS, the members of the Alabama Legislature are aware of the contributions that have been made by the more than 1,400 nutrition professionals currently practicing in Alabama, including the vast improvements that have been made in nutrition therapy for various illnesses, heretofore unknown by the health care profession; and

WHEREAS, the fine men and women that have dedicated themselves to the study of nutrition and dietetics in this state are often unrecognized and unheralded in their efforts to improve the health and well-being of the citizenry of this great state; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That on this 9th day of May 1995, we do hereby focus our attention on the members of Alabama's dietetic and nutrition services industry in an effort to recognize the tireless efforts and major contributions the industry has made to the people of this state.

BE IT FURTHER RESOLVED, That we express our most sincere appreciation to the members of the Alabama Dietetic Association for their unselfish dedication to the continued well-being of the people of this state and that we applaud their work on behalf of all of the citizens of Alabama.

Approved May 12, 1995

Time: 10:10 A.M.

Act No. 95-80 H.J.R. 25 – Rep. Parker (T)

HOUSE JOINT RESOLUTION

COMMENDING DONALD R. JORDAN AS ALABAMA'S SMALL BUSINESS PERSON OF THE YEAR.

WHEREAS, it is with sincere pleasure and pride that the Alabama Legislature notes the selection of Donald R. Jordan, President of Jordan Pile Driving, Inc., as Alabama Small Business Person of the Year for 1994 by the U. S. Small Business Administration; and

WHEREAS, out of the nation's 20 million small businesses, Donald Jordan was one of the 53 top small business persons from each state and the District of Columbia, Puerto Rico, the Virgin Islands and Guam to be recently honored in Washington, D.C.; and

WHEREAS, Mr. Jordan has served as president of Jordan Pile Driving since 1977, and, under his expert leadership and management, the company has evidenced phenomenal growth and success; and

WHEREAS, founded in 1946 by H. C. "Hack" Jordan in Ozark, Jordan Pile Driving specializes in pile driving for such projects as bridges, plants, condominiums, high-rise buildings and ship docks, and is the only company in Alabama to have driven pilings for bridges in all 67 counties; and

WHEREAS, selected Small Business of the Year by the Chamber of Commerce, and recognized as one of the top 600 specialty contractors of the year in the "Engineering News Record" magazine in 1993, Jordan Pile Driving, with offices in Ozark and Mobile, employs an average of 55 people and pursues projects in six Southeastern states; and

WHEREAS, of further note, the company made headlines worldwide when it rebuilt the infamous Bayou Canot Bridge in only eight days, following the Amtrack Sunset Limited crash on September 22, 1994; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, and as Business Person of the Year, highest commendation and heartiest congratulations are hereby accorded Donald R. Jordan, for whom a copy of this resolution shall be provided.

Approved May 12, 1995

Time: 10:11 A.M.

Act No. 95-81 H.J.R. 102 – Rep. Parker (P)

HOUSE JOINT RESOLUTION

NAMING THE FERRELL D. CLEMONS GYMNASIUM OF SPARKMAN ELEMENTARY SCHOOL.

WHEREAS, it is with great pride and pleasure that the Alabama Legislature hereby names the new Sparkman Elementary School gym as the Ferrell D. Clemons Gymnasium; and

WHEREAS, Principal Ferrell D. Clemons has served Sparkman Elementary School for 29 years, and will begin his new duties as Superintendent of Morgan County Schools on July 1, 1995; and

WHEREAS, on May 16, 1995, friends and associates will gather at a ceremony hosted by the Sparkman Parent Teacher Organization to honor the tremendous accomplishments and service of Ferrell D. Clemons, and to wish him the best of luck in his new position; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby name the new gymnasium of Sparkman Elementary School as the Ferrell D. Clemons Gymnasium, in tribute to Sparkman's departing principal, Ferrell D. Clemons, and furthermore direct that a copy of this resolution be presented to him as evidence of our appreciation and esteem.

Approved May 12, 1995

Time: 10:11 A.M.

Act No. 95-82 H.J.R. 98 – Reps. Carothers, Allen, Baker, Bandy, Black (L), Black (M), Box, Boyd, Burke, Buskey, Carns, Carter, Clark (J), Clark (W), Clouse, Collins, Crigler, Curry, Dean, Dolbare, Drake, Dukes, Flowers, Ford, Fuller, Gaines, Galliher, Gaston, Gipson, Graham, Guin, Hall (A), Hall (L), Hamilton, Hammett,

Haney, Hawk, Hawkins, Hayden, Hill, Hilliard, Hinshaw, Hogan, Holmes, Hooper, Houston, Jackson, Johnson (E), Johnson (R), Jorgensen, Kennedy, Knight (A), Knight (J), Laird, Layson, Letson, Lindsey, Maull, McAdory, McClammy, McDaniel, McKee, McMillan, Melton, Millican, Minnifield, Mitchell, Moore, Morrison, Morrow, Morton, Murphree, Newton (C), Newton (D), Page, Papucci, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Pringle, Reed, Robinson, Rogers (J), Rogers (M), Sanderford, Sanderson, Seibenhener, Sims, Smith, Spratt, Starkey, Thomas (D), Thomas (J), Townsend, Turner, Turnham, Vance, Venable, Warren, White, Willis, Wren

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF PATTI SUE MATHIS OF WICKSBURG, ALABAMA.

WHEREAS, it is with a deep sense of personal sadness and regret that the Legislature of Alabama records the death of Patti Sue Mathis of Wicksburg, Alabama, March 29, 1995, at the age of only 22 years; and

WHEREAS, born October 11, 1972, and a lifelong resident of Wicksburg, Miss Mathis was the daughter of Sue S. Mathis and our dear friend and former colleague, Nathan Mathis; and

WHEREAS, Miss Mathis, who was a student at the Wallace Junior College School of Nursing at the time of her lamentable death, was a graduate of Wicksburg High School, where she was acclaimed an outstanding athlete, serving as captain of the girl's basketball team, and receiving scholarships in softball to Enterprise State and Mobile University; she was also a member of the Christian Home Church of Christ in Wicksburg; and

WHEREAS, Patti Sue Mathis was indeed a special young lady and her death has left a deep void in the life of the community, and in the hearts of all those privileged to her friendship, love and sincere concern for their happiness and well-being; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the death of Patti Sue Mathis of Wicksburg, Alabama, and extend our most heartfelt sympathy to her loving parents; to her brother, Joey Mathis, and sister-in-law, Jane Mathis; paternal grandmother, Mrs. Pauline Mathis; one niece and nephew; and other family members, whose sorrow we share, and for whom a copy of this resolution of sincere condolence shall be provided.

Approved May 12, 1995

Time: 10:13 A.M.

Act No. 95-83 H.J.R. 95 – Rep. Thomas (J)

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF BERTHA CANNON PERRYMAN OF CAMDEN, ALABAMA.

WHEREAS, it is with deepest sorrow and regret that the Legislature of Alabama records the lamentable death of Mrs. Bertha Cannon Perryman of Camden, Alabama, on July 17, 1994; and

WHEREAS, Mrs. Bertha Cannon Perryman was indeed a lady of true and noble character who left an indelible mark on her community and all who knew her; and

WHEREAS, Mrs. Perryman was educated in the Wilcox County School System and received both her Bachelor and Masters degrees from Alabama State University; and

WHEREAS, as a teacher for 39 years in the Monroe County School System, she was committed to the education and well-being of countless young Black students under her charge, and earned the highest admiration and regard of the entire community as an outstanding educator, a dedicated professional, as an individual; and

WHEREAS, she further ministered to the needs of others as founder of a radio ministry, "The Perryman Spiritual Program," which ran for 14 years until her death; and

WHEREAS, Mrs. Perryman was also a member of the Retired Teachers Association, Pride of Camden #678 Order of the Eastern Star, and Little Rock Baptist Church, where she served as Sunday School teacher; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as we mourn her death, we give thanks for the life and service of Mrs. Bertha Cannon Perryman of Camden, Alabama, and extend heartfelt sympathy to her loving children, Cynthia and Darryl, and other family members and friends, whose sorrow we share, and for whom a copy of this resolution of sincere condolence shall be provided.

Approved May 12, 1995

Time: 10:14 A.M.

Act No. 95-84 H.J.R. 94 – Rep. Carter

HOUSE JOINT RESOLUTION

RECOGNIZING "THANKS TO THEM" AS THE OFFICIAL SONG HONORING WORLD WAR II VETERANS FOR 1995.

WHEREAS, there are more than 200,000 veterans of World War II living in Alabama; and

WHEREAS, the Governor has designated 1995 as the 50th Commemoration Year of the Anniversary of World War II; and

WHEREAS, at a general meeting of the Alabama Department of the Veterans of Foreign Wars in Huntsville on January 28, 1995, the department adopted the song, "Thanks to Them" as the official theme song to honor Alabama's World War II veterans in 1995; and

WHEREAS, "Thanks to Them," written by VFW Member Jerry Hayes, was adopted by Post 4765, Veterans of Foreign Wars on April 13, 1995, as the official song honoring World War II veterans of Alabama in 1995; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby recognize "Thanks to Them" as the official song honoring World War II veterans of Alabama in 1995, and hereby direct that a copy of

this resolution be sent to the Commander of Post 4765, Veterans of Foreign Wars.

Approved May 12, 1995

Time: 10:15 A.M.

Act No. 95-85 H.J.R. 88 – Reps. Boyd, Hall (L), Graham, Kennedy

HOUSE JOINT RESOLUTION

COMMEMORATING THE SERVICE OF MRS. JUNE BUGG.

WHEREAS, on June 15, 1995, the National Foundation for Women Legislators, Inc. will conduct a twenty-state celebration teleconference to commemorate the 100th anniversary of women in state legislatures, and to honor those women who currently serve or have formerly served as legislators; and

WHEREAS, on this momentous occasion, we find it appropriate and fitting to record and honor the service of Mrs. June Bugg of Gadsden, Alabama, who served as the devoted woman legislator of District 29 of the Alabama Legislature, until her lamentous death on May 18, 1993; and

WHEREAS, a distinguished Alabamian, June Bugg was highly respected and admired by her colleagues, and was unequivocal in her convictions; she emphasized the importance of the education of our youth, the value of the arts in society, and other notable areas of consequence to the benefit of Alabamians; and

WHEREAS, a staunch advocate, Mrs. Bugg was a faithful member of the First United Church of Gadsden, Alabama, and a woman whose genuine care and concern made a lasting impression on all with whom she associated; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby commemorate the devoted service of June Bugg to the Alabama Legislature, on the glorious occasion of the celebration teleconference by the National Foundation of Women Legislators, Inc. recognizing the 100th anniversary of women in state legislatures.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided for the family of Mrs. Bugg and the National Foundation of Women Legislators, Inc. as evidence of our great esteem and gratitude.

Approved May 12, 1995

Time: 10:16 A.M.

Act No. 95-86 H.J.R. 87 – Reps. Boyd, Hall (L), Graham, Kennedy

HOUSE JOINT RESOLUTION

HONORING THE SERVICE OF WOMEN OF THE ALABAMA LEGISLATURE.

WHEREAS, on June 15, 1995, the National Foundation for Women Legislators, Inc. will conduct a twenty-state celebration teleconference to recognize the 100th anniversary of women in state legislatures, and to pay tribute to those women who serve or have formerly served as state legislators; and

WHEREAS, on this momentous occasion, the Legislature of Alabama finds an opportunity to honor and commend those women whose service to the citizens of Alabama as a legislator exemplify the highest standards of professionalism and moral value; and

WHEREAS, these women who have provided valuable knowledge, vital expertise, and devoted leadership for the State of Alabama are: Kiley T. Berryman (1969-1970), Marilyn Quarles (1974-1978), Ann Bedsole (House of Representatives 1978-1982; Senate 1982-1994), Martha Jo Smith (1978-1982), Louphenia Thomas (1978-1979), Shelby Dean Ward (1978-1982), Mary S. Zoghby (1978-1994), Yvonne Kennedy (1979-present), Sundra Escott-Russell (House of Representatives 1981-1994; Senate 1994-present), Patricia Davis (1982-1983; 1986-1989), Jarushia Thornton (1982-1983), Bobbie G. McDowell (1983-1994), Beth Marietta-Lyons (1983-1990), Sister Strong (1983-1986), Jane Gullatt (1989-1994), Lois Rockhold (1990-1994), Laura Hall (1993-present), Barbara Bigsby Boyd (1994-present), and Betty Carol Graham (1994-present); now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of the celebration of 100 years of women in state legislatures, we hereby extend warmest congratulations and sincerest appreciation to those women who served or are currently serving as legislators of Alabama.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided for each of the above-named women and the National Foundation for Women Legislators, Inc. as evidence of our highest esteem.

Approved May 12, 1995

Time: 10:17 A.M.

Act No. 95-87 H.J.R. 86 – Reps. Boyd, Hall (L), Graham, Kennedy

HOUSE JOINT RESOLUTION

COMMEMORATING THE SERVICE OF WOMEN OF THE ALABAMA LEGISLATURE.

WHEREAS, on June 15, 1995, the National Foundation for Women Legislators, Inc. will conduct a twenty-state celebration teleconference to commemorate the 100th anniversary of women in state legislatures, and to honor those women who currently serve or have formerly served as legislators; and

WHEREAS, on this momentous occasion, we find it appropriate and fitting to pay tribute to those women, now deceased, who served the citizens of Alabama as legislators of this state, and whose immeasurable contributions and dedicated service will serve as an example to women of the future; and

WHEREAS, these women, whose devotion to unheralded duty earned the respect and admiration of the countless individuals they have touched are: Hattie Hooker Wilkins (1922-1926, the first female legislator to serve in Alabama), Sibyl Poole (1939-1947), Clara Stone Collins Fields (1962-1970), Retha Deal Wynot (1970-1974), and June Bugg (1983-1993); now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of the celebration of 100 years of women in state legislatures, we hereby commemorate the service of those women who formerly served the Alabama Legislature and furthermore express sincerest gratitude for their distinguished service.

BE IT FURTHER RESOLVED, That copies of this resolution be provided for the families of each of the above-named women and the National Foundation for Women Legislators, Inc. as evidence of our highest esteem.

Approved May 12, 1995

Time: 10:18 A.M.

Act No. 95-88 H.J.R. 85 – Rep. Hall (L)

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF DR. BESSIE WASHINGTON JONES OF HUNTSVILLE, ALABAMA.

WHEREAS, it is with a sense of deep sadness and regret that the Alabama Legislature notes the lamentable death of Dr. Bessie Washington Jones of Huntsville, Alabama, on April 7, 1995; and

WHEREAS, Dr. Jones was a past assistant professor of English at Miles College, and then began a prestigious career at Alabama A & M University where she served as an assistant professor, associate professor, and professor of English, chairperson of the English and Foreign Language Department, vice-president for Academic Affairs, and dean of the School of Arts and Sciences; and

WHEREAS, a native of Mt. Meigs, Alabama, and daughter of Doctors D. C. and Bessie R. Washington, Dr. Jones graduated at age 15 from Cobb Avenue High School, and later received a Bachelor of Arts degree from Spelman College, a Master of Arts degree from Atlanta University, and a Ph. D degree from Peabody College at Vanderbilt University; and

WHEREAS, a member of numerous professional organizations such as the Modern Language Association, College Language Association, and the Toni Morrison Society, Dr. Bessie Jones was a well respected woman who entrenched herself in such notable activities as Girls, Inc. of Huntsville, Alpha Kappa Alpha Sorority, Inc., and the Society of Professional Women; and

WHEREAS, a published scholar and well known lecturer, Dr. Jones was a member of the Board of Directors of the Museum of Art Foundation, Alabama Humanities Foundation, and the United Way; she was furthermore recognized for her outstanding accomplishments as the recipient of the Merit Award of the National Alumnae Association of Spelman College, the She Knows Where She's Going Award from Girls, Inc. of Huntsville, and Outstanding **Education of America; and**

WHEREAS, Dr. Jones was a dedicated religious advocate who was a devoted member of First Missionary Baptist Church where she was involved as a member of the Trustee Board, vice-president of Missionary Circle One, a Sunday School teacher, and director of vacation bible school;

WHEREAS, Dr. Bessie Jones was indeed an exemplar of good citizenship in her service as a professional, lecturer, and leader; she is a credit to her family, community, and this state; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby grievously mourn the death of Dr. Bessie Washington Jones of Huntsville, Alabama, and extend our heartfelt sympathy to her husband, Dr. George E. Jones; her mother, Dr. Bessie M. R. Washington; two daughters, Attorney Jocelyn E. Jones and Gina

E. Jones; one son, Glenn E. Jones; and other loving family including brothers, aunts, grandchildren, and sisters-in law.

BE IT FURTHER RESOLVED, That copies of this resolution be provided for the family of Dr. Bessie Washington Jones, as evidence of our esteem and remembrance.

Approved May 12, 1995

Time: 10:19 A.M.

Act No. 95-89 H.J.R. 84 – Rep. Hall (L)

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF MRS. RUBY H. CHERRY.

WHEREAS, the Legislature of Alabama hereby records with deepest sorrow and regret the death of Mrs. Ruby H. Cherry on April 8, 1995, at the age of 77 years; and

WHEREAS, born December 25, 1917, in Chambers County, the daughter of Sam Miller and Lizzie Hardnett Miller, she confessed Christ as her Savior at an early age and joined the Rehope Baptist Church; and

WHEREAS, Mrs. Cherry was later a member of Bell Missionary Baptist Church in Auburn, a church she would return to in her retirement years to serve in Christian service and as counselor for the Matron's Circle; and

WHEREAS, for some 34 years of her life, Mrs. Cherry was a prominent member of the Birmingham community and, over these years, gave generously and selflessly of her time to Trinity Baptist Church, where she served as Sunday School teacher, as a member of numerous auxiliaries, and as a regular delegate to the State Baptist Convention and National Baptist Convention; she also played a vital role in civic affairs and was instrumental in the organization of the Birmingham Chapter of Housewives League, which she served as president; and

WHEREAS, Ruby Cherry was indeed a warm and caring lady with a heart full of love for her family and friends, and she will be sorely missed by all those whose lives were touched by her concern for their happiness and well-being; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the death of Mrs. Ruby H. Cherry, and extend heartfelt sympathy to her loving daughters, Jessie Muriel Williams and

Idella Dowdell; a devoted son, Robert James Richardson; to her fifteen grandchildren and nineteen great-grandchildren; and to other close family members, whose sorrow we share, and for whom a copy of this resolution of sincere condolence shall be provided.

Approved May 12, 1995

Time: 10:20 A.M.

Act No. 95-90 H.J.R. 82 – Rep. Wren

HOUSE JOINT RESOLUTION

HONORING MR. ROBERT ABERNATHY OF MILLBROOK, ALABAMA, ON THE OCCASION OF HIS 80TH BIRTHDAY.

WHEREAS, Robert Abernathy, a highly regarded member of the Millbrook community, has marked a milestone in his life with the celebration of his 80th birthday, May 15, 1995, and is deserving of heartiest congratulations and special public recognition; and

WHEREAS, born May 15, 1915, in Coosa County, Alabama, Mr. Abernathy is a faithful and longtime member of Mt. Hebron Baptist Church; he also is the devoted father of three children and the proud grandfather of seven grandchildren and great-grandfather of eight; and

WHEREAS, Mr. Abernathy will observe another milestone in his life on November 25, 1995, when he and his wife, Louise, will celebrate their 50th Wedding Anniversary, and both are deserving of heartiest congratulations on this very special occasion; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most heartily congratulate and commend Mr. Robert Abernathy of Millbrook, Alabama, on the momentous occasion of his 80th birthday, and do further direct that he receive a copy of this resolution, with sincere best wishes for many more years of good health and happiness in life.

Approved May 12, 1995

Time: 10:21 A.M.

Act No. 95-91 H.J.R. 73 – Reps. Hooper, Allen, Baker, Bandy, Black (L), Black (M), Box, Boyd, Burke, Buskey, Carns,

Carothers, Carter, Clark (J), Clark (W), Clouse, Collins, Crigler, Curry, Dean, Dolbare, Drake, Dukes, Flowers, Ford, Fuller, Gaines, Galliher, Gaston, Gipson, Graham, Guin, Hall (A), Hall (L), Hamilton, Hammett, Haney, Hawk, Hawkins, Hayden, Hill, Hilliard, Hinshaw, Hogan, Holmes, Houston, Jackson, Johnson (E), Johnson (R), Jorgensen, Kennedy, Knight (A), Knight (J), Laird, Layson, Letson, Lindsey, Maull, McAdory, McClammy, McDaniel, McKee, McMillan, Melton, Millican, Minnifield, Mitchell, Moore, Morrison, Morrow, Morton, Murphree, Newton (C), Newton (D), Page, Papucci, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Pringle, Reed, Robinson, Rogers (J), Rogers (M), Sanderford, Sanderson, Seibenhener, Sims, Smith, Spratt, Starkey, Thomas (D), Thomas (J), Townsend, Turner, Turnham, Vance, Venable, Warren, White, Willis, Wren

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF NANCY SUTHERLAND BOSWELL.

WHEREAS, it is with great sadness and regret that the Alabama Legislature records the death of Nancy Sutherland Boswell on March 16, 1995; and

WHEREAS, Nancy Boswell served in the Bill and Duplicating Department of the Alabama House of Representatives from February, 1985, through May, 1994, where her diligence and efficiency raised the level of professionalism of the House staff, earning Nancy widespread respect from members and co-workers alike; and

WHEREAS, Nancy Boswell was a 1944 graduate of Sidney Lanier High School in Montgomery; she attended Hollins College, Virginia, and was a graduate of the University of Alabama; and

WHEREAS, Nancy was known to all her friends and family as a gracious and generous hostess, with a keen intellect, a wry sense of humor, and stoic courage in the face of adversity; and

WHEREAS, Nancy was preceded in death by her beloved husband, Dr. Richard Boswell, and leaves behind a son, Richard Boswell, Jr., along with his wife, Ginger, and their daughter, Sarah; a son Wiely, along with his wife Pamela and their children, Starr and Sutherland; and a daughter Elizabeth; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we mourn the passing of Nancy Sutherland Boswell and extend our sincere sympathy to her family.

BE IT FURTHER RESOLVED, That a copy of this resolution of deep sorrow be provided for each of Nancy's children, in order that they may know of the high esteem in which she was held.

Approved May 12, 1995

Time: 10:22 A.M.

Act No. 95-92 H.J.R. 65 – Rep. Venable

HOUSE JOINT RESOLUTION

DESIGNATING A PORTION OF U.S. 231 IN ELMORE COUNTY, AS THE "VETERANS MEMORIAL BOULEVARD."

WHEREAS, the contributions of Veterans of the U.S. Armed Forces who live in the City of Wetumpka have been ongoing, valuable, and deeply appreciated by all residents; and

WHEREAS, all of the Veterans from the Wetumpka area have been good citizens, taxpayers, and have made invaluable contributions to our community; and

WHEREAS, it is only fitting and proper that some display of our continuous gratitude be shown to the Veterans who placed

their lives on the line to maintain our values and freedom, here at home and abroad; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the portion of U.S. Highway 231, in Elmore County, beginning at the northern boundary line of the Wetumpka city limits to the southern boundary line within the Wetumpka city limits, be designated as the "Veterans Memorial Boulevard."

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to the Mayor and City Council of the City of Wetumpka, Alabama, as evidence of our deep appreciation and gratitude for the selfless service provided by the Veterans of the Wetumpka community and that appropriate officials erect signs to reflect this designation.

Approved May 12, 1995

Time: 10:23 A.M.

Act No. 95-93 H.J.R. 64 – Reps. Buskey, Kennedy, Mitchell

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF GEORGE THOMAS JONES, SR., OF MOBILE, ALABAMA.

WHEREAS, on January 30, 1995, the Lord called home His faithful servant, George Thomas Jones, Sr., of Mobile, Alabama; and

WHEREAS, a native of Demopolis, Alabama, and a longtime resident of Mobile, George Thomas Jones was a dearly beloved member of his community, whose good deeds earned the admiration and respect of countless individuals whose lives were touched by his genuine care and concern; and

WHEREAS, a man of deep and abiding faith, he was a faithful and devoted member of State Street AME Zion Church, where he served as a Steward for many years, as well as in numerous other capacities; he was also a member of the Elks Lodge #244; and

WHEREAS, preceded in death by a son, George Thomas Jones, Jr., Mr. Jones is survived by his devoted wife, W. Mozell Jones; daughters, E. Olivia Jones and Jamie M. Jones; son, Reginald Jones and daughter-in-law, Cathethia; a sister, Lucy A. Banks; two grandchildren; brother-in-law, James Jack and his wife, Beatrice; a devoted cousin, Edna Mae Stallworth; and many nieces, nephews, other relatives and friends; and

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as we mourn his death, we give thanks to God for the life and service of George Thomas Jones, Sr., of Mobile, Alabama, and extend deepest sympathy to his beloved family, whose sorrow we truly share, and for whom a copy of this resolution of sincere condolence shall be provided.

Approved May 12, 1995

Time: 10:24 A.M.

Act No. 95-94 H.J.R. 54 – Rep. Dolbare

HOUSE JOINT RESOLUTION

DESIGNATING THE BEN RODGERS LEE BRIDGE IN WASHINGTON COUNTY.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the bridge over U. S. Highway 43 located in Washington County just south of the rest area, is named and designated "The Ben Rodgers Lee Bridge" in honor of famous turkey hunter, Ben Rodgers Lee.

BE IT FURTHER RESOLVED, That the proper officials are authorized to erect and maintain appropriate signs and markers, which may indicate the support of the National Wild Turkey Federation, designating "The Ben Rodgers Lee Bridge," and that a copy of this resolution be sent to the State Department of Transportation.

Approved May 12, 1995

Time: 10:25 A.M.

Act No. 95-95 H.J.R. 56 – Rep. Hooper

HOUSE JOINT RESOLUTION

COMMENDING THE SIDNEY LANIER HIGH SCHOOL ATHLETICS FOUNDATION.

WHEREAS, the Sidney Lanier High School Athletics Foundation has been established to foster closer relationships between the home, school, parents, friends of Sidney Lanier High School and coaching staff; and

WHEREAS, the Sidney Lanier High School Athletics Foundation seeks to provide funds for athletics that will ensure

players have the opportunity to participate in an atmosphere conducive to the winning tradition of Sidney Lanier High School; and

WHEREAS, the Sidney Lanier High School Athletics Foundation seeks to create an attitude in Sidney Lanier student athletes that brings credit to their God, home, school and themselves through a mental and physical program that will help prepare them for their leadership roles of the future; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most heartily endorse and applaud the actions of the Sidney Lanier High School Athletics Foundation, Inc., and go on record to encourage the citizens of the State of Alabama to support the efforts of the said Foundation so that the winning tradition and excellent reputation Sidney Lanier High School deserves will continue and grow.

Approved May 12, 1995

Time: 10:26 A.M.

Act No. 95-96 H.J.R. 61 – Rep. Box

HOUSE JOINT RESOLUTION

COMMENDING THE DIRECTOR, CAST, AND CREW OF "TERROR IN THE SUBURBS."

WHEREAS, it is with great pride that the Legislature of Alabama commends the director, cast, and crew of "Terror in the Suburbs" on an outstanding overall performance; and

WHEREAS, performed at 7:00 p.m. on March 14, 1995, "Terror in the Suburbs," a merry madcap mystery, was presented by some dedicated members of the Satsuma High School Senior Class, and was a wonderful production based on the version by Frances Stuart; and

WHEREAS, the director, Mary Atchison, was the leader of a fine and talented cast and crew which consisted of Wendy Singleton, Josh Skidmore, Brian Charles, Jennifer Brown (Best Actress), Brandi Herrington, Memory Ellzey, Elizabeth McLendon, Ashley Lowe (Best Supporting Actress), Chris Key (Best Actor), Dewayne Hilliard, Eric Nelson (Best Supporting Actor), Nia Black, Lance Harbison, Brent Hart, Kristy Tarver, Chris Bowden, Chris Benoit, Matt Tate, and Carrie Cartier, all of whom deserve special credit for their enormous contributions; and

WHEREAS, the brilliant production by these devoted seniors of Satsuma High School, entertained audiences with a "potent potion" of comedy and mystery; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of an outstanding performance, we hereby applaud the tremendous efforts of the director, cast, and crew of the Satsuma Senior Class play, "Terror in the Suburbs," and it is furthermore directed that copies of this resolution be provided for each contributing member as evidence of our commendation and esteem.

Approved May 12, 1995

Time: 10:27 A.M.

Act No. 95-97 H.J.R. 62 – Rep. Box

HOUSE JOINT RESOLUTION

HONORING THE SATSUMA HIGH SCHOOL VARSITY CHEERLEADERS FOR DISTINGUISHED ACHIEVEMENT.

WHEREAS, it is with great pride and pleasure that the Legislature of Alabama recognizes the 1994-95 Satsuma High School Varsity Cheerleading Squad on their appearance at the 1995 Senior Bowl in Mobile, Alabama; and

WHEREAS, chosen for the fourth time in six years, the Satsuma Cheerleading Squad was the only squad from Mobile County who received the honor of an invitation to cheer at the Senior Bowl this year; and

WHEREAS, sponsored by Donna Salter and Andrea Lomax, the members of the Satsuma Varsity Cheerleading Squad are, seniors: Wendy Singleton, Jennifer Brown, Melissa Patterson (co-captain), Nia Black (captain), Kelly Turner, Brandi Landrum, Ashley Lowe, Tara Kaeser, and Keith Dennis (mascot); juniors: Lyndsey Lomax, Summerlyn Parham, and Michelle Turner; and sophomore Sabrina Jones, all of whom deserve special recognition for their efforts; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in honor of outstanding accomplishment and dedication, the Alabama Legislature hereby commends and congratulates the Satsuma High School Varsity Cheerleaders on their appearance at the Senior Bowl, and it is furthermore directed that a copy of this resolution be presented to each member as evidence of our great pride and esteem.

Approved May 12, 1995

Time: 10:28 A.M.

Act No. 95-98 H.J.R. 63 – Rep. Morton

HOUSE JOINT RESOLUTION

HONORING MR. KENNETH ALLEN CLEMONS ON HIS RETIREMENT.

WHEREAS, it is with great pleasure and pride that the Alabama Legislature herein extends warmest congratulations to Mr. Kenneth A. Clemons on the occasion of his retirement following thirty-two years of service to the education system of this state; and

WHEREAS, as principal of Robert C. Arthur Elementary School of Birmingham, Alabama, since it's opening in 1971, Kenneth A. Clemons has inspired, encouraged, and touched countless young people through his devotion to students, making Arthur Elementary School one of the finest in the area; and

WHEREAS, earning an Associate degree from the University of Alabama at Birmingham, and both Bachelor's and Master's degrees from Auburn University, Kenneth A. Clemons has made immeasurable contributions through his constructive influence on the children; and

WHEREAS, Kenneth Clemons also serves on the City Council of Gardendale, and is active in many professional organizations such as the National League of Cities and Alabama League of Municipalities; and

WHEREAS, holding such past positions as President of Birmingham Education Association and President of Birmingham Principals Association, Kenneth A. Clemons has been the recipient of such prestigious awards and honors as Principal of the Year in 1988, and the Distinguished Service Award from the Alabama League of Municipalities; and

WHEREAS, Kenneth A. Clemons and his wife of 33 years, Rhonda Sinyard Clemons, are the dedicated parents of three children and the proud grandparents of five; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of his exemplary record and dedicated accomplishments, the Alabama Legislature hereby accords Kenneth A. Clemons highest commendation on the occasion of his retirement, and furthermore directs that a copy of this resolution be provided as evidence of our deepest gratitude and esteem.

Approved May 12, 1995

Time: 10:29 A.M.

Act No. 95-99 H.J.R. 46 – Rep. Hammett

HOUSE JOINT RESOLUTION

RECOGNIZING HISTORIC DEVEREUX HILL IN ANDALUSIA, ALABAMA, AND REQUESTING THAT A SIGN BE PLACED THEREON.

WHEREAS, Devereux Hill, also known as "Debro" has been a historic landmark in Covington County for 170 years and is named for John W. Devereux, an early resident of Covington County; and

WHEREAS, aside from writing the enabling acts that created Covington County, Mr. Devereux was Covington County's first postmaster, county judge, and senator; and

WHEREAS, Mr. Devereux lived at Montezuma, in Covington County, for ten years, before moving to Macon County and later to the Republic of Texas; and

WHEREAS, Mr. Devereux's son, Julian Sidney Devereux, was equally influential and married Adaline Bradley, a member of a very prominent Covington County family; he was named to the Board of Trustees at the University of Alabama in 1833; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the proper officials are authorized to erect and maintain appropriate signs and markers designating "Devereux Hill 'Debro'" and that the State Department of Transportation be sent a copy of this resolution.

Approved May 12, 1995

Time: 10:30 A.M.

Act No. 95-100 H.J.R. 55 – Rep. Millican

HOUSE JOINT RESOLUTION

DESIGNATING HIGHWAY 278 IN WINSTON COUNTY AS "LOONEY'S TAVERN PARKWAY."

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the portion of Highway 278 in Winston County beginning at the Marion County line and traveling to the Cullman County line is hereby designated as "Looney's Tavern Parkway."

BE IT FURTHER RESOLVED, That the Department of Transportation shall pay for, erect, and maintain signs which show this designation.

Approved May 16, 1995

Time: 10:30 A.M.

Act No. 95-101

S.J.R. 49 – Senators Hale, Adams, Amari, Armistead, Bailey, Barron, Bedford, Biddle, Butler, Clay, Davidson, Denton, Dial, Dixon, Escott-Russell, Figures, Ghee, Hill, Langford, Lindsey, Lipscomb, Little, McClain, Mitchell, Mitchem, Myers, Poole, Roberts, Sanders, Smith, Smitherman, Steele, Waggoner, and Windom

SENATE JOINT RESOLUTION

EXTENDING CONGRATULATIONS TO THE HONORABLE AND MRS. DEWAYNE FREEMAN OF HUNTSVILLE, ALABAMA, ON THE BIRTH OF A SON, MADISON BAILLIE FREEMAN, APRIL 27, 1995.

WHEREAS, it is with great delight and pleasure that the Legislature of Alabama extends heartiest congratulations to the Honorable and Mrs. Dewayne Freeman of Huntsville, Alabama, on the birth of a son, Madison Baillie Freeman, on April 27, 1995; and

WHEREAS, it was indeed a lucky 7 day for our friend and colleague, Senator Dewayne Freeman of District 7, Madison County, and his lovely wife, Cheryl, when little Madison Baillie arrived in LDR 7 at Baptist Medical Center at 4:33 p.m. on April 27, 1995, weighing 7 pounds, 7 ounces, and measuring 20 1/2 inches in length; and

WHEREAS, a handsome young fellow, with his father's big blue eyes and his mother's special charm and winning smile, little Madison Baillie joins with big brother, five-year-old Justin, in bringing untold happiness and joy to their proud parents; and

WHEREAS, also celebrating this special event are Madison Baillie's elated grandparents, Granville and Jean Freeman of Huntsville, and Howard and Mary Faye Perdue of Montgomery; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend heartiest congratulations to Dewayne and Cheryl Freeman on the birth of their son, Madison Baillie Freeman, on April 27, 1995.

BE IT FURTHER RESOLVED, That a copy of this resolution be prepared for presentation to Senator and Mrs. Freeman, and that a copy also be provided for Madison Baillie that he may know of the happiness we shared with his parents on the occasion of his birth.

Approved May 19, 1995

Time: 1:50 P.M.

Act No. 95-102 S.J.R. 53 – Senator Mitchell

SENATE JOINT RESOLUTION

COMMENDING THE PRATTVILLE JUNIOR HIGH SCHOOL SCIENCE OLYMPIAD TEAM FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, the Alabama Legislature recognizes the importance and desirability of promoting scholarship, leadership, and the achievement of excellence among Alabama youth, and the value of academic competitions in recognizing and rewarding their efforts and achievements; and

WHEREAS, the Prattville Junior High School Science Olympiad Team, Prattville, Alabama, has brought recognition to its school, teachers, community and state by placing first in both regional and state competition and, on May 20, 1995, for the second year in a row, this outstanding group of young people will represent Alabama competing against the top 52 teams in the nation for the national title; and

WHEREAS, the members of this exceptionally talented team, each of whom, under the able direction of Coach Beronica Covington, has greatly contributed to an outstanding team effort are: Ashley Abernathy, Adam Broxson, Abbey Bunning, Niki Creel, Joe Davis, Mary DeRamus, Laura Emerson, Elizabeth Forward, Miranda Hasley, Barbara Hattemer, Katherine Hughes, Josh Jackson, Ashley Kee, Sara Knight, Mandy Littlejohn, Georgia Mallory, Lindsey McCorkle, Nailah Mims, Zalika Mims, Jenny Owens, Katherine Sanford, Annie Schmitz, Nicholas Seamon, Jennifer Secrest, Abby Sellers, Leslie Waters, and Jessica Williams; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby recognize and applaud the Prattville Junior High School Science Olympiad Team and express pride and congratulations in their accomplishments.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided as an expression of our tribute and esteem and of our sincere best wishes for every future success.

Approved May 19, 1995

Time: 1:51 P.M.

Act No. 95-103 S.J.R. 54 – Senator Armistead

SENATE JOINT RESOLUTION

COMMENDING DR. AND MRS. DEWEY ANDERSON WHITE, JR.,ON THE OCCASION OF THEIR 50TH WEDDING ANNIVERSARY.

WHEREAS, it is with great pleasure that the Alabama Legislature notes the 50th Wedding Anniversary of Dr. and Mrs. Dewey Anderson White, Jr., on May 20, 1995; and

WHEREAS, Dewey White and Lilian "Lil" Leland Culley were joined in matrimony on May 20, 1945, at the South Highland Presbyterian Church in Birmingham, and, through the years, their commitment to the ideals of marriage has served not only to enrich their lives, but as an example to be emulated by others; and

WHEREAS, they have distinguished themselves as respected and valued members of their community, and, most especially, as loving and devoted parents and grandparents to their four children: Lilette, Nancy, Janet, and Andy, and nine grandchildren: Andy, Glen, Van, Brett, Anderson, Chip, Laura, Britt, and Claire; and

WHEREAS, the Whites, who own and operate a blueberry farm and nursery in Pelham, have dedicated untold hours in devoted service to their community and, most especially, to their children, their first priority; and

WHEREAS, Dr. White has served as Executive Director and Chairman of the Board of the King's Ranch, and as Little League coach and Commissioner; Mrs. White as leader for Brownie and Girl Scout troops, and president of PTA; and both have co-sponsored 8th and 9th grade Cotillion, and taught Sunday School, among other activities; and

WHEREAS, also of note, Dr. White, a retired Birmingham Pediatrician, was the first physician to serve as a member of the Alabama Legislature, initially as a member of the Alabama House of Representatives from 1974-1978, and following as a member of the Alabama Senate; and Mrs. White, always his devoted supporter, became an active member of the Alabama Legislative Wives; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join with family and friends in celebrating the Golden Wedding Anniversary of Dr. and Mrs. Dewey Anderson White, Jr., and direct that they receive a copy of this resolution of sincere commendation, with warm best wishes for many more years together in their marriage so richly blessed by God.

Approved May 19, 1995

Time: 1:52 P.M.

Act No. 95-104 S.J.R. 55 – Senator Armistead

SENATE JOINT RESOLUTION

HONORING MRS. ANN B. HEAD OF COLUMBIANA, ALABAMA.

WHEREAS, it is on the occasion of her retirement from 28 years of service of teaching, including 16 as principal of Elvin Hill Elementary School, that the Alabama Legislature warmly congratulates Mrs. Ann B. Head of Columbiana, Alabama, for outstanding achievements; and

WHEREAS, under the leadership of principal Ann B. Head, Elvin Hill Elementary School has grown and expanded, instituting such programs as the Annual Social Studies and Science Fair, Adopt-A-School program with businesses and clubs, and the Fluoride Swish for children program; and

WHEREAS, in an effort to ensure that the school remains at the forefront, Ann B. Head has actively promoted technological advancements at Elvin Hill Elementary School by installing computers in all rooms, advanced technology in the library, and closed circuit televisions in all rooms; and

WHEREAS, the chairperson of Shelby County's Principal Association, Mrs. Head has been recognized personally for her tremendous accomplishments, being a nominee for such prestigious awards as the National Distinguished Principals Award for

Shelby County, Child's Advocate Award, and the National PTA Educator of the Year; and

WHEREAS, a native of Hamlet, North Carolina, and graduate of the University of North Carolina, Mrs. Head is the devoted wife of Oliver P. Head, and they are the proud parents of Frank, Dan, Andy, Jason, and Marjorie; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of 28 years of outstanding service to the youth of Alabama, we hereby commend Mrs. Ann B. Head on the occasion of her retirement as principal of Elvin Hill Elementary School, and furthermore direct that a copy of this resolution be provided as evidence of our appreciation and esteem.

Approved May 19, 1995

Time: 1:53 P.M.

Act No. 95-105 S.J.R. 46 – Senators Dixon and Langford

SENATE JOINT RESOLUTION

COMMENDING BUCKS AND BOBBY WEIL FOR OUTSTANDING ACCOMPLISHMENTS.

WHEREAS, it is with great pride and pleasure that the Alabama Legislature recognizes the selection of Adolph (Bucks) Weil and Robert (Bobby) Weil as the recipients of the "Citizen of the Year" award by the Montgomery Advertiser, in honor of the immeasurable contributions they have made to the Montgomery community throughout the years; and

WHEREAS, these brothers, who are partners in Weil Brothers-Cotton Inc., the world's third largest cotton brokerage firm, have earned widespread admiration and respect for their exemplary character and community service and are well deserving of this notable recognition; and

WHEREAS, both brothers are active supporters of the Montgomery Museum of Fine Arts, and have served as president of the American Cotton Shippers Association, and Temple Beth-Or; and

WHEREAS, among numerous other involvements of leadership and service, Bucks has been president of the Montgomery Area United Way, Chairman of the Alabama Ethics Commission in 1982 and 1983, and a major benefactor of the YMCA, Boy Scouts, and Boys Club; and Bobby has been the State Chairman of Radio

Free Europe Fund, Chairman of the Montgomery Long Range Planning Council, Fund Chairman of the United Negro College Fund, and Chairman of St. Margaret's Hospital Advisory Board to name but a few; and

WHEREAS, the Weil brothers have each received numerous honors and awards for their accomplishments and notable generosity; Bucks was Man of the Year for both the YMCA youth program and Mental Health Association, a nominee for membership in the Alabama Academy of Honor, and an inductee of the Alabama Senior Citizens Hall of Fame; Bobby has been recognized as the Montgomery Junior Chamber of Commerce "Outstanding Young Man of the Year" in 1948, the recipient of the Huntingdon College President's Medal, and was named "Paul Harris Fellow" by the Rotary Club; and

WHEREAS, over the years, the Weil brothers have made invaluable contributions in civic, religious, cultural, and community affairs, and their generous legacy indeed serves as a shining example to be emulated by others; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby accord highest commendation and warmest congratulations to Bucks and Bobby Weil, recipients of the "Citizen of the Year" award and we do furthermore direct that copies of this resolution be provided as evidence of our utmost esteem and appreciation.

Approved May 19, 1995

Time: 1:54 P.M.

Act No. 95-106 H.J.R. 142 – Rep. Hammett

HOUSE JOINT RESOLUTION

RELATIVE TO MEETING DAYS.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That when the two houses adjourn Thursday, May 18, 1995, they adjourn to meet again on Tuesday, May 23, 1995, and when they adjourn on Tuesday they adjourn to meet again on Thursday, May 25, 1995.

Approved May 19, 1995

Time: 1:55 P.M.

Act No. 95-107 S.J.R. 58 – Senator Butler

SENATE JOINT RESOLUTION

COMMENDING BROOKHILL ELEMENTARY SCHOOL FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, it is with great pride and pleasure that the Alabama Legislature notes the selection of Brookhill Elementary School as one of the most outstanding elementary schools in America by Redbook Magazine; and

WHEREAS, located in Athens, Alabama, Brookhill Elementary School has consistently earned higher than the national averages on standardized achievement tests and continues to impress school board members; and

WHEREAS, Principal Gerald Perry, ably assisted by dedicated faculty, staff, and many caring parents, contributed extensively toward the achievement of this prestigious recognition, which further afforded the opportunity for showcasing the entire Athens School System and its many innovations, such as the new computer network; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and warmest congratulations to Brookhill Elementary School in honor of being selected as one of the most outstanding elementary schools in America.

BE IT FURTHER RESOLVED, That a copy of this resolution of pride and esteem be provided for Brookhill Elementary School for appropriate presentation and display.

Approved May 19, 1995

Time: 1:56 P.M.

Act No. 95-108 S.J.R. 59 – Senator Butler

SENATE JOINT RESOLUTION

COMMENDING CLARENCE H. MCDANIEL OF THE ATHENS-LIMESTONE COUNTY COMMUNITY AS CITIZEN OF THE YEAR.

WHEREAS, the Alabama Legislature notes with highest commendation the distinguished community service of Clarence H.

McDaniel and his selection as "Citizen of the Year" by the Athens-Limestone Chamber of Commerce; and

WHEREAS, Clarence McDaniel, a native of Chilton County, and a gentle, unassuming man who is highly sensitive to the needs of the community, has given freely and selflessly of his time and talents in volunteer service to his community and in response to the needs of his fellow citizens and area youth; and

WHEREAS, he has assisted the elderly and provided invaluable support to countless civic and service organizations, including the Athens-Limestone Kidney Association, the Chamber of Commerce, the Alabama Sheriff's Boys and Girls Ranches, and the Athens and Limestone County Boys and Girls Club, and as a deacon at the Trinity Congregational United Church of Christ, to name a few; and

WHEREAS, a naval veteran of World War II, Mr. McDaniel earned both his B.S. and Master's degrees from Alabama A&M and worked at the Alabama Cooperative Extension Service from 1952 to 1984, serving both Limestone County and the district; and

WHEREAS, Mr. McDaniel and his devoted wife, Betty, are the proud parents of two children, Clarence, Jr., and Linda, and grandparents to three; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join with the Athens-Limestone community in honoring Clarence H. McDaniel as "Citizen of the Year," and do further direct that he receive a copy of this resolution of sincere admiration and esteem.

Approved May 19, 1995

Time: 1:57 P.M.

Act No. 95-109 S.J.R. 60 – Senator Butler

SENATE JOINT RESOLUTION

COMMENDING MIKE BENNETT OF ATHENS, ALABAMA, AS BUSINESS PERSON OF THE YEAR.

WHEREAS, the Alabama Legislature takes great pleasure in noting the selection of Mike Bennett of Athens, Alabama, as "Business Person of the Year" by the Athens-Limestone Chamber of Commerce; and

WHEREAS, Mike Bennett, a prominent area businessman, serves as president of Bennett's Department Store in Athens; and

WHEREAS, Mr. Bennett joined his father in the family business in 1980, following his graduation from Auburn University and, by 1982, the two had opened a second store in Clanton; and

WHEREAS, over the years, Mike Bennett has contributed significantly toward the growth and development of the Athens business community; under his capable management and supervision, the Athens store has undergone progressive remodeling and changes to better serve the ever-changing needs of area residents, and enhancing the downtown area and the overall economic well-being of the community; and

WHEREAS, in addition to business responsibilities, Mr. Bennett has further served his community as an active member of the Athens Rotary Club and the First United Methodist Church, and through other civic involvement; and

WHEREAS, Mr. Bennett and his supportive wife, Donna, are the proud parents of three children, son, Cory, and daughters, Emily and Sarah; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That upon his selection as "Business Person of the Year," we hereby most highly commend Mike Bennett of Athens, Alabama, and direct that he receive a copy of this resolution with sincere best wishes for every future success.

Approved May 19, 1995

Time: 1:58 P.M.

Act No. 95-110 S.J.R. 64 – Senator Little

SENATE JOINT RESOLUTION

COMMENDING COACH DOUG BARFIELD ON THE OCCASION OF HIS RETIREMENT.

WHEREAS, it is with great pride and pleasure that the Alabama Legislature honors Coach Doug Barfield on the occasion of his retirement as Athletic Director and Head Football Coach of Opelika High School on June 30, 1995; and

WHEREAS, building the now powerhouse Bulldog program since 1990 in class 6A competition, Doug Barfield has lead the team to an outstanding record of 40 wins, 19 losses, and an astonishing three area championships; and

WHEREAS, Doug Barfield has previously served as Head Football Coach at Hillcrest-Evergreen, Andalusia High School, and UMS Wright, amassing a sparkling record of 117-54-2, which paved the way to assistant coaching positions at such notable programs as those of the University of Southern Mississippi, Clemson University, Auburn University, and Mississippi State University; and

WHEREAS, earning widespread regard and respect through his experience and coaching abilities, Doug Barfield was furthermore selected as Head Football Coach for the Auburn University Tigers serving from 1976-1980; and

WHEREAS, as much loved members of the Opelika community, Doug Barfield and his devoted wife, Betty, are the dedicated members of First Baptist Church of Opelika, Alabama, where Doug is an active deacon; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of his many outstanding accomplishments, we hereby accord highest commendation and warmest congratulations to Coach Doug Barfield on the occasion of his retirement as Athletic Director and Head Football Coach of Opelika High School, and furthermore direct that a copy of this resolution be provided as evidence of our appreciation and esteem.

Approved May 19, 1995

Time: 1:59 P.M.

Act No. 95-111 S.J.R. 42 – Senator Lindsey

SENATE JOINT RESOLUTION

TO CREATE A BALANCED BUDGET EVALUATION COMMITTEE

WHEREAS, Article V of the Constitution of the United States requires that whenever two-thirds of both Houses of Congress propose amendments to the Constitution, ratification of those amendments is required by three-fourths of the Legislatures of the States; and

WHEREAS, amendments proposed to the Constitution of the United States have a serious impact upon the process of government and upon the lives of every citizen of this nation;

WHEREAS, the Congress is now in the process of considering an amendment to the Constitution which would require the budget of the federal government to be balanced; and

WHEREAS, upon the adoption of a balanced budget amendment by Congress, the Alabama Legislature will be called upon to consider this amendment; and

WHEREAS, the prospect of a federally balanced budget may require Congress to significantly alter the federal budget which could have serious repercussions upon the budget of the State of Alabama, local and county governments, and the educational system of this State; and

WHEREAS, for the Alabama Legislature to be properly prepared for any deliberation on a federal balanced budget amendment, there is need for a bipartisan, unbiased review of the impact the federal budget now has upon the State of Alabama, and what impact a balanced budget amendment for the federal government will have upon the State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is created the Balanced Budget Evaluation Committee which shall be charged with the responsibility to evaluate the impact that an amendment to the Constitution of the United States requiring the federal budget be balanced will have upon the State of Alabama, local and county governments, and the educational system of this State.

BE IT FURTHER RESOLVED, That the Balanced Budget Evaluation Committee shall be composed of three appointees of the Governor, three appointees of the Lieutenant Governor, one of which shall be a member of the Senate, and three appointees of the Speaker of the House of Representatives, one of which shall be a member of the House of Representatives. Staff assistance shall be provided to the Balanced Budget Evaluation Committee by the Legislature and the Governor is requested to lend the assistance of the State Budget Office to assist the Committee. The Balanced Budget Evaluation Committee shall report its findings to the Governor and Legislature no later than 180 days after Congress adopts a proposed amendment to balance the federal budget. Members shall be entitled to receive reimbursement for their actual expenses which shall be paid from funds appropriated to the Legislature and the Governor's Office. Expenses of the committee shall not exceed $7,500 per year.

RESOLVED FURTHER, That this committee shall continue in existence until the final day of the 1998 Regular Session or the date upon which the Balanced Budget Amendment is ratified, whichever date occurs first, at which time the committee shall terminate.

RESOLVED FURTHER, That a copy of this resolution be forwarded to the Governor.

Approved May 23, 1995

Time: 3:30 P.M.

Act No. 95-112 S. 163 – Senator Biddle

AN ACT

To amend Section 12-17-184, Code of Alabama 1975, relating to the powers and duties of district attorneys, requiring a report to the State Board of Medical Examiners of any physician indicted or otherwise charged with any felony, any misdemeanor related to the practice of medicine, or any violation of Section 32-5A-191; requiring the report to be made within 30 days of the filing of any indictment, information, or other charge; requiring a report to the State Board of Medical Examiners of the conviction of any physician for any felony, or any misdemeanor related to the practice of medicine, or any violation of Section 32-5A-191; requiring that report be submitted within 30 days after sentencing without regard to any appeal of the conviction; and defining a physician as any individual licensed to practice medicine by the Medical Licensure Commission of Alabama.

Be It Enacted by the Legislature of Alabama:

"§12-17-184.

"It is the duty of every district attorney and assistant district attorney, within the circuit, county, or other territory for which he or she is elected or appointed:

"(1) To attend on the grand juries, advise them in relation to matters of law, and examine and swear witnesses before them.

"(2) To draw up all indictments and to prosecute all indictable offenses.

"(3) To prosecute and defend any civil action in the circuit court in the prosecution or defense of which the state is interested.

"(4) To inquire whether registers have performed the duty required of them by section 12-17-117 and shall, in every case of failure, move against the register as provided by subsection (b) of section 12-17-114.

"(5) If a criminal prosecution is removed from a court of his or her circuit, county, or division of a county to a court of the United States, to appear in that court and represent the state; and, if it is impracticable, consistent with his or her other duties, to attend that court, he or she may designate and appoint an attorney practicing therein to appear for and represent the state.

"(6) To attend each special session of the circuit court held for the trial of persons charged with criminal offenses; and on failure to do so, a conditional judgment may be rendered against him or her for fifty dollars ($50), to be made permanent on notice at the next session thereafter unless a good excuse is rendered.

"(7) To perform other duties and exercise other powers as are or may be required by law.

"(8) To give every county official an opinion in writing on all matters connected with their respective offices, except in civil actions against official bonds. But county commissions may retain or employ attorneys when it is deemed advisable or necessary, and the agreed compensation to them may be paid as are claims to grand and petit jurors.

"(9) To, whenever requested to do so by the governor of Alabama or by the board of pardons and paroles, make a full and thorough investigation in each case arising in their circuit, county, or division of a county, and fully report their findings, with recommendations that pardon or parole be granted or refused, and they shall assign fully and in detail their reasons for the recommendations. They shall advise any parole officer who may have jurisdiction in their respective circuits, county, or division of a county and shall, when called upon by parole officer, make a full, thorough, and impartial investigation of each case being investigated and give all information possible with reference to such case and shall advise him or her upon his or her request with reference to the law and procedure on all matters pertaining to the office of the parole officer. They shall, whenever called upon by the governor or the board of pardons and paroles, go to Montgomery or to any other place where a case with which they are familiar is being investigated and appear specially before the governor or before the board of pardons and paroles. They shall cooperate fully with the governor and with the board of pardons and paroles with reference to any cases which have arisen in their respective circuits, counties, or division of a county and shall render all assistance possible in furnishing information needed by the governor or the board of pardons and paroles, furnishing any information and making any investigation which may be needed in the proper handling of such pardon or parole and the investigation thereof.

"(10) To go to any place in the state of Alabama and prosecute any case or cases, or work with any grand jury, when called upon to do so by the attorney general or the governor of the state of Alabama, and to attend sessions of courts and transact all of the duties of the district attorney in the courts whenever called upon by the attorney general or the governor to do so.

"(11) All district attorneys and all full-time assistant district attorneys shall devote their entire time to the discharge of the duties of their respective offices, and each and every one of the officers are prohibited from practicing law, directly or indirectly, in any court of this state or of the United States, or in any other manner or form whatsoever, except in the discharge of the official duties of their offices.

"(12) To carefully read and check the record on appeal in all criminal cases appealed from the circuit court of their judicial circuit to the court of criminal appeals or the supreme court of Alabama, and call to the attention of the trial judge any errors or discrepancies that may appear in the record.

"(13) To, whenever requested by the attorney general of the state of Alabama, file memorandum briefs in all criminal cases appealed from the circuit court of their judicial circuits to the court of criminal appeals or the supreme court of Alabama.

"(14) To attend all hearings in their judicial circuits on any application for probation and furnish the trial judge or the judge hearing the application with all information in their possession concerning the applicant for probation.

"(15) To represent the board of registrars of the county or counties comprising their judicial circuits in all civil actions for damages that are filed against the boards of registrars arising out of the performance of their official duties, in either the circuit court of their judicial circuits or in the United States district courts.

"(16) To attend all clemency hearings before the governor of Alabama, in all cases arising in their judicial circuits, and furnish to the governor, at those hearings, all pertinent information in their possession concerning the applicant or applicants for clemency.

"(17) To attend all hearings in their respective judicial circuits for revocation of probation and furnish the trial judge, or the judge hearing the revocation, with all information in their possession concerning the case.

"(18) To, at any time the grand jury is not in session, issue subpoenas to persons to come before them, and they shall have power to administer oaths to those persons and examine them as to any violation of the criminal laws of the state.

"(19) To make application to the courts to place witnesses in criminal cases under bond for their appearance in court when they have information that the witnesses are about to leave the state.

"(20) To, when requested to do so, represent the chief of police of any municipality in their respective judicial circuits in all habeas corpus proceedings filed in the circuit courts of their respective judicial circuits.

"(21) To, when requested to do so by the attorney general, assist the attorney general in the prosecution of all impeachment proceedings which it is his or her duty to institute before the supreme court of Alabama involving any official or officials in their respective judicial circuits.

"(22) To report to the State Board of Medical Examiners the name and address of any physician who is indicted or otherwise charged with any felony or any misdemeanor related to the practice of medicine, or any violation of Section 32-5A-191. The report required by this subsection shall be made within 30 days of the filing of any indictment, information, or other charge in any district or circuit court of this state. In addition, a report shall be rendered to the State Board of Medical Examiners of the conviction of any physician for any felony or any misdemeanor related to the practice of medicine, or any violation of 32-5A-191. The report of conviction shall be submitted within 30 days after sentencing without regard to any appeal of the conviction. For the purposes of this subsection a physician is an individual licensed to practice medicine by the Medical Licensure Commission of Alabama."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 24, 1995

Time: 4:50 P.M.

Act No. 95-113 H. 223 – Rep. Letson

AN ACT

To alter, rearrange, and extend the boundary lines and corporate limits of the Town of Hillsboro in Lawrence County.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the Town of Hillsboro in Lawrence County are altered, rearranged, and extended to include within the corporate limits of the town, in addition to the lands now included, all of the following territory:

HILLSBORO ANNEXATION DESCRIPTION

PARCEL "A"

Begin at the intersection of the existing South Hillsboro city limits boundary (The South boundary of County Board of Education property as it existed in April 1994), and County Road No. 400 in the NW 1/4 of Section 9, T5S, R6W; thence South along the said County Road No. 400 to the South boundary of the said NW 1/4; thence West along the South boundary of said NW 1/4 of Section 9 and the South boundary of the NE 1/4 of Section 8, T5S, R6W, 1185 feet more or less to the Southwest corner of property owned by Kathy S. Diggs as it existed in April 1994; thence North along said Diggs property 460 feet more or less to the Northwest corner thereof; thence East along the North boundary of said Diggs property and property owned by Theodore Porter as it existed in April 1994, 400 feet more or less; thence North along the West boundary of property owned by Robert and Irma Bates; Marvin Miller; Hortense Miller and Fannie Lavern Miller as these existed in April 1994, 420 feet more or less to the Southeast corner of property owned by Jeffrey Miller and Debra Goodloe as it existed in April 1994; thence West along the South boundary of said Miller and Goodloe property 209 feet to the Southwest corner thereof; thence North along the said Miller and Goodloe property and property owned by Rudolph Trammell and Leroy Bolden as it existed in April 1994; 420 feet more or less to the South boundary of property owned by Dorothy and Leo Smith as it existed in April 1994; thence West along said Smith property to the Southwest corner thereof; thence North along said Smith property to the Northwest corner thereof; thence East along the North boundary of said Smith property and property owned by Marvin and Mattie Lee Miller as it existed in April 1994; to the intersection of County Road No. 594; thence South along said County Road No. 594 to the North boundary of property owned by Louis and Beatrice King as it existed in April 1994; thence East along the said North boundary of King property and the North boundary of property owned by Andrew and Jocelyn A. McClain and Michael and Jacquelin McClain in Section 9, T5S R6W as it existed in April 1994, to the Southwest corner of property owned by Mary Kimble and Lizzie Bentley as it existed in April 1994; thence North along said Kimble and Bentley property 210 feet more or less to the South boundary of property owned by Freddie and Shirley King as it existed in April 1994; thence West along said King property to the Southwest corner thereof; thence North along the West boundary of said King property to the Northwest corner thereof; thence East along the North boundary of said King property to the point of beginning.

PARCEL "B"

Begin at the intersection of existing Hillsboro city limits as of May 1994 and the North boundary of the South 1/2 of the South 1/2 of the SW 1/4 of Section 4, T5S, R6W; thence East along the said boundary 311 feet to the Northeast corner of land described in deed book 94 page 233; thence South along said land 140 feet to the Southeast corner thereof; thence East along land described in deed book 124 page 545, 311 feet to the Northeast corner of said land; thence South along said land 140 feet to the Southeast corner thereof; thence West along said land of deed book 124 page 545 and of deed book 108 page 557, 604 feet to the existing Hillsboro city limits; thence South along said limits to the Northwest corner of land described in deed book 120 page 61; thence East along said land 311 feet to the Northeast corner thereof; thence South along said land 140 feet to the Southeast corner thereof; thence West along said land 311 feet to the existing city limits, point of termination.

Section 2. In accordance with Section 11-42-6(b) of the Code of Alabama 1975, a map showing what territory is proposed to be annexed to the Town of Hillsboro is on file in the Office of the Judge of Probate in Lawrence County, Alabama, and the map is open to the inspection of the public.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 24, 1995

Time: 4:51 P.M.

Act No. 95-114 H. 224 – Rep. Letson

AN ACT

Relating to Lawrence County; providing for the establishment of a consolidated and unified system for assessment and collection of taxes under the supervision of an elected county official designated as county revenue commissioner; providing for the election, power, duties, term of office, and compensation of the official; abolishing the offices of tax assessor and tax collector; and providing for a referendum.

Be It Enacted by the Legislature of Alabama:

Section 1. At the expiration of the term of office of the Office of Tax Assessor and the Office of Tax Collector of Lawrence County, there shall be established the Office of County Revenue Commissioner in Lawrence County. A county revenue commissioner shall be elected at the next general election prior to the expiration of the term of office of the tax assessor and the tax

collector and at the general election every six years thereafter. The county revenue commissioner shall serve for a term of six years beginning on the first day of October next after his or her election, and until his or her successor is elected and has qualified.

Section 2. The county revenue commissioner shall do and perform all acts, duties, and functions required by law performed either by the tax assessor or by the tax collector of the county including, but not limited to, the assessment of property for ad valorem taxation, the collection of the taxes, the keeping of records, and the making of reports concerning assessments for and the collection of taxes.

Section 3. Subject to the approval of the county commission, the county revenue commissioner shall appoint and fix the duties of a sufficient number of deputies, clerks, and assistants to perform properly the duties of his or her office. The acts of the deputies shall have the same force and legal effect as if performed by the county revenue commissioner.

Section 4. Before entering upon the duties of his or her office, the county revenue commissioner shall take the oath of office prescribed by Article XVI of the Constitution of Alabama of 1901, and execute a bond in a sum fixed by the county commission, giving as security thereon a bonding company authorized to do business in Alabama. The bond shall be conditioned, as other official bonds are conditioned, and shall be approved by and filed with the judge of probate. The cost of the bond shall be paid out of the general funds of the county on a warrant of the county commission and shall be a preferred claim against the county.

Section 5. The county commission shall provide the necessary offices for the county revenue commissioner and shall provide all stationery, equipment, and office supplies, not otherwise furnished by law, needed for the efficient performance of the duties of the office.

Section 6. The county revenue commissioner shall collect and pay into the general fund of the county all fees, percentages, commissions, and other allowances which the tax assessor and the tax collector are now or hereafter by law authorized or directed to charge or collect for the performance of a duty imposed by law on the officers and transferred to and imposed on the county revenue commissioner. As compensation for performance of the duties of his or her office, the county revenue commissioner shall receive a minimum salary as provided by Section 40-6A-2 of the Code of Alabama 1975, payable in the manner prescribed by the county commission, out of the county general fund with the exact amount to be set by resolution of the county commission prior to the county revenue commissioner taking office.

Section 7. The Offices of Tax Assessor and Tax Collector of Lawrence County shall be abolished effective on the last day of the term to which they are elected.

Section 8. It is the purpose of this act to conserve revenue and promote the public convenience in Lawrence County by consolidating the offices of tax assessor and tax collector into one county office.

Section 9. This act shall be inoperative and void unless it shall have been approved by a majority of the qualified electors of Lawrence County who vote at a referendum election held for this purpose. The election shall be held and conducted as nearly as may be in the same way as elections on amendments to the Constitution, and shall be held on the same day as the next special, general, or primary election held in Lawrence County next following final passage of this act. Notice of the election shall be given by the Judge of Probate of Lawrence County, which notice shall be published once a week for three successive weeks before the day of the election. On the ballots to be used at the election, the proposition to be voted on shall be stated substantially as follows:

"Shall Act No. _____ of the 199__ _____ Session of the Legislature, which provides for the abolition of the Offices of Tax Assessor and Tax Collector of Lawrence County and the consolidation of the duties of those offices into the one office to be known as the County Revenue Commissioner of Lawrence County, be approved? Yes ( ) No ( )."

If a majority of the votes cast at the election are affirmative votes, this act shall be in full force and effect immediately thereafter. If a majority of the votes cast are in the negative, the act shall have no further effect. The Judge of Probate of Lawrence County shall certify the results of the election to the Secretary of State immediately after the returns have been certified.

Section 10. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 11. All laws or parts of laws which conflict with this act are repealed.

Section 12. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 24, 1995

Time: 4:52 P.M.

Act No. 95-115

H. 325 – Reps. Hill, Ford, Morrison, McKee, Wren, Page, Morrow, Seibenhener, Baker, Knight (A), Moore, Hammett, Gaines, Clark (J), Letson, Carter, Gipson, Venable, McDaniel, Sanderson, Knight (J), Hall (A), Hinshaw, Gaston, Lindsey, Flowers, Newton (D), Curry, Holmes, Guin, Buskey, Maull, Burke, Johnson (E), Rogers (J), Hawkins, Carns, Townsend, Clouse, Allen, Haney, Minnifield, Petelos, Thomas (D), Morton, Graham, Galliher, Jorgensen, Smith, Murphree, Spratt, Hooper, Newton (C), Starkey, Rogers (M), Millican, Fuller, Dean

AN ACT

Relating to banks, interstate mergers and acquisitions, branch banking, and international banking which: amends Title 5 of the Code of Alabama 1975 by adding Chapter 13B to create the "Alabama Interstate and International Banking Act of 1995"; provide definitions; authorize any bank holding company whose principal place of business is in the United States to acquire banks and bank holding companies located in Alabama under certain conditions and limitations; provide for interstate mergers, consolidation of merged bank operations, and branching interstate under certain conditions; provide for Alabama state banks to branch interstate and in foreign countries, provide for reporting by, and examination of, branches of out-of-state banks; provide for licensing, application, regulation, and other requirements for foreign bank branches, offices, or agencies operating in Alabama; provide applicable law and regulatory supervision and enforcement authority; provide for application and fees; amend Section 5-1A-1 relating to "Alabama Banking Code" to add the provisions of this act and Chapter 20 of Title 5 relating to credit cards to the definition of "Alabama Banking Code"; amend Section 5-1A-6 relating to inconsistent provisions of law to add the provisions of this act and Chapter 20 of Title 5; amend Section 5-2A-2 relating to venue of actions involving the superintendent or the banking department to add the provisions of this act and Chapter 20 of Title 5; amend Section 5-2A-8 relating to the authority of the Superintendent of Banks to promulgate regulations to carry out the provisions of certain laws relating to banking to add the provisions of this act and Chapter 20 of Title 5; amend Section 5-2A-23 relating to legal representation of the Superintendent of Banks under certain provisions of law to increase the availability of representation by adding the provisions of this act and Chapter 20 of Title 5; amend Section 5-5A-18.1 relating to the authority of the Superintendent of Banks to approve a state bank exercising powers and being entitled to rights, privileges, and protections of a federally chartered or regulated bank to increase the authority

of the superintendent; amend Section 5-5A-20 relating to branch banking to remove certain restrictions applicable to branch banking and to permit Alabama banks to branch within Alabama, any other state, or foreign country upon approval of the Superintendent of Banks and compliance with applicable laws; amend Section 5-6A-25 relating to criminal liability of directors, officers, and employees of a bank to add the provisions of this act and Chapter 20 of Title 5; repeal Chapter 13A of Title 5 relating to regional interstate banking; repeal Section 5-7A-45 which places certain restrictions on branch banking; provide for severability and the effective date of provisions of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. Title 5 of the Code of Alabama 1975 is amended by adding Sections 2 to 65, inclusive, of this act as Chapter 13B, which shall be known and may be cited as the "Alabama Interstate and International Banking Act of 1995," to read as follows:

CHAPTER 13B
INTERSTATE AND INTERNATIONAL BANK ACQUISITIONS, MERGERS AND BRANCHING
ARTICLE 1
ACQUISITIONS OF BANKS BY BANK HOLDING COMPANIES

Section 2. Definitions. For purposes of this article:

(a) "Acquire" means:

(1) For a company to merge or consolidate with a bank holding company;

(2) For a company to assume direct or indirect ownership or control of:

(I) More than 25 percent of any class of voting shares of a bank holding company or a bank, if the acquiring company was not a bank holding company prior to such acquisition;

(II) More than five percent of any class of voting shares of a bank holding company or a bank, if the acquiring company was a bank holding company prior to such acquisition; or

(III) All or substantially all of the assets of a bank holding company or a bank; or

(3) For a company to take any other action that results in the direct or indirect acquisition of control by such company of a bank holding company or a bank.

(b) "Affiliate" has the meaning set forth in Section 2(k) of the Bank Holding Company Act.

(c) "Alabama bank" means a bank that is:

(1) Organized under the laws of Alabama under the jurisdiction of the superintendent; or

(2) Organized under federal law and having its main office in this state.

(d) "Alabama bank holding company" means a bank holding company that:

(1) Had its principal place of business in this state on July 1, 1966, or the date on which it became a bank holding company, whichever is later; and

(2) Is not controlled by a bank holding company other than an Alabama bank holding company.

(e) "Bank" has the meaning set forth in Section 2(c) of the Bank Holding Company Act.

(f) "Bank holding company:"

(1) Has the meaning set forth in Section 2(a) of the Bank Holding Company Act; and

(2) Unless the context requires otherwise, includes an Alabama bank holding company, an out-of-state bank holding company, and a foreign bank holding company.

(g) "Bank Holding Company Act" means the federal Bank Holding Company Act of 1956, as amended, 12 U.S.C. §§ 1841 et seq.

(h) "Bank supervisory agency" means any of the following:

(1) The Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and any successor to these agencies; and

(2) Any agency of another state with primary responsibility for chartering and supervising banks.

(i) "Branch" has the same meaning as "domestic branch" defined in Section 3 of the Federal Deposit Insurance Act; however, an automated teller machine shall not constitute a branch.

(j) "Company" has the meaning set forth in Section 2(b) of the Bank Holding Company Act, and includes a bank holding company.

(k) "Control" shall be construed consistently with the provisions of Section 2(a) of the Bank Holding Company Act.

(l) "Deposit" has the meaning set forth in 12 U.S.C. § 1813(1).

(m) "Depository institution" means any institution included for any purpose within the definitions of "insured depository institution" as set forth in 12 U.S.C. § 1813(c)(2) and (3).

(n) "Foreign bank holding company" means a bank holding company that is organized under the laws of a country other than the United States, including any territory or possession thereof.

(o) "Home state regulator" means, with respect to an out-of-state bank holding company, the bank supervisory agency of the state in which such company maintains its principal place of business.

(p) "Out-of-state bank holding company" means:

(1) A bank holding company that is not an Alabama bank holding company; and

(2) Unless the context requires otherwise, includes a foreign bank holding company.

(q) "Principal place of business" of a bank holding company means the state in which the total deposits of all bank subsidiaries of such company were the greatest on the later of July 1, 1966, or the date on which such company became a bank holding company.

(r) "State" means any state, territory, or other possession of the United States, including the District of Columbia.

(s) "Subsidiary" has the meaning set forth in Section 2(d) of the Bank Holding Company Act.

(t) "Superintendent" means the Superintendent of Banks then in office and, where appropriate, all of his or her successors and predecessors in office.

Section 3. Scope of Article and Statement of Legislative Intent.

This article sets forth the conditions under which a company may acquire an Alabama bank or an Alabama bank holding company. This article is intended not to discriminate against out-of-state bank holding companies or against foreign bank holding companies in any manner that would violate Section 3(d) of the Bank Holding Company Act, as amended effective September 29, 1995, by Section 101 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, Public Law No. 103-328.

Section 4. Permitted Acquisitions.

(a) Except as otherwise expressly permitted by federal law, no company may acquire an Alabama bank holding company or an Alabama state bank without the prior approval of the superintendent.

(b) The approval of the superintendent under subsection (a) shall not be required where the acquisition is made:

(1) Solely for the purpose of facilitating an acquisition otherwise permitted under this article which does not require the approval of the superintendent;

(2) In a transaction arranged by the superintendent or another bank supervisory agency to prevent the insolvency or closing of the acquired bank; or

(3) In a transaction in which a bank forms its own bank holding company, if the ownership rights of the former bank shareholders are substantially similar to those of the shareholders of the new bank holding company.

(c) In a transaction for which the superintendent's approval is not required under this section, the parties shall give written notice to the superintendent at least 15 days before the effective date of the acquisition, unless a shorter period of notice is expressly permitted or required under applicable federal law.

Section 5. Required Application.

(a) A company that proposes to make an acquisition under this article shall:

(1) File with the superintendent a copy of the application that such company has filed with the responsible federal bank supervisory agency together with such additional information as the superintendent may prescribe; and

(2) Pay to the superintendent the application fee, if any, prescribed by the superintendent.

(b) To the extent consistent with the effective discharge of the superintendent's responsibilities, the forms established under this article for application and reporting shall conform to those established by the Board of Governors of the Federal Reserve System under the Bank Holding Company Act.

(c) In connection with an application received under this article, the superintendent shall:

(1) Require that prior notice of the application be published one time in a daily newspaper of general circulation and provide an opportunity for public comment; and

(2) Make the application available for public inspection to the extent required or permitted under applicable state or federal law.

(d) If the applicant is an out-of-state bank holding company that is not incorporated under the laws of this state, it shall submit

with the application evidence satisfactory to the superintendent that the applicant has complied with or is exempted from the requirements of Sections 10-2B-15.01, et seq., Code of Alabama 1975.

Section 6. Standards for Approval.

(a) In deciding whether to approve an application for a proposed acquisition under this article, the superintendent shall consider whether the acquisition may:

(1) Be detrimental to the safety and soundness of the Alabama state bank or the Alabama bank holding company to be acquired;

(2) Result in a substantial reduction of competition in this state; or

(3) Have a significantly adverse effect on the convenience and needs of the community or communities in this state that are served by the Alabama state bank or the Alabama bank holding company to be acquired.

(b) Except as otherwise expressly provided in this section, the superintendent shall not approve an acquisition under this article if upon consummation of the transaction the applicant, including any depository institution affiliated with the applicant, would control 30 percent or more of the total amount of deposits held by depository institutions in this state.

(c) The superintendent may by regulation, with the concurrence of a majority of the members of the Alabama State Banking Board, adopt a procedure whereby the limitation on control of deposits set forth in subsection (b) of this section may be waived for good cause shown.

(d) The superintendent shall not approve an application for an acquisition under this article unless the Alabama bank to be acquired, or all Alabama bank subsidiaries of the bank holding company to be acquired, have as of the proposed date of acquisition been in existence and in continuous operation for five years or more.

(e) The five-year requirement shall be met if the superintendent determines that either the Alabama bank or the subsidiaries of the Alabama bank holding company to be acquired:

(1) Were organized solely for the purpose of facilitating the acquisition of a bank that has been in existence and continuously operating for more than five years, or

(2) Resulted from the merger or consolidation of two or more banks at least one of which had been in existence and continuously operating for more than five years.

Section 7. Procedures Relating to Applications.

(a) The superintendent shall decide whether to approve an acquisition under this article within 60 days after receipt of a completed application; provided, that if the superintendent requests additional information from the applicant following receipt of a completed application, the time limit for decision by the superintendent shall be the later of:

(1) The date set forth above in this subsection (a), or

(2) Thirty days after the superintendent's receipt of the requested additional information.

(b) The superintendent may in his or her discretion hold a public hearing in connection with an application at any time within 20 days after receipt of the completed application if a significant issue of law or fact has been raised with respect to the proposed acquisition.

(c) If the superintendent holds a public hearing in connection with an application, the time limit specified in subsection (a) shall be extended to 30 days after the conclusion of the public hearing.

(d) An application shall be deemed approved if the superintendent takes no action on the application within the time limits specified in this section.

Section 8. Reports; Examinations.

(a) To the extent specified by the superintendent by regulation, order, or written request, each bank holding company that directly or indirectly controls an Alabama state bank or an Alabama bank holding company, or the home state regulator of such company, shall submit to the superintendent:

(1) One or more copies of each financial report filed by such company with any bank supervisory agency, except for any report the disclosure of which would be prohibited by applicable federal or state law, within 15 days after the filing thereof with such agency; and

(2) An annual report, not later than April 15 of each year for each bank and branch in the state controlled by the bank holding company:

(I) The location;

(II) The amount of deposits held as of the end of the preceding calendar year; and

(III) The amount of loans made during the preceding calendar year to individuals and entities with addresses in this state.

(b) At the request of the superintendent, to the extent permitted by applicable state or federal law, each bank holding company that controls an Alabama state bank or an Alabama bank holding company, or the home state regulator of such bank or company, shall provide to the superintendent copies of the reports of examination of the company or any Alabama state bank or Alabama bank holding company.

(c) The superintendent may examine an Alabama bank holding company whenever the superintendent has reason to believe that the company is not being operated in compliance with the laws of this state or in accordance with safe and sound banking practices.

Section 9. Agency Activities.

(a) Any Alabama state bank may, upon compliance with the requirements of this section, agree to receive deposits, renew time deposits, close loans, service loans, receive payments on loans and other obligations and, with the prior approval of the superintendent, perform other services as an agent for any depository institution.

(b) An Alabama state bank that proposes to enter into an agency agreement to perform services other than those specifically designated in subsection (a) of this section shall file with the superintendent at least 30 days before the effective date of the agreement:

(1) A notice of intention to enter into such an agency agreement with a depository institution;

(2) A description of the services other than those specifically designated in subsection (a) of this section proposed to be performed under the agency agreement; and

(3) A copy of the agreement.

(c) If any proposed service is not specifically designated in subsection (a) of this section and has not previously been approved in a regulation issued by the superintendent, the superintendent shall decide whether to approve the offering of such service within 30 days after receipt of the notice required by subsection (b) of this section; provided, that if the superintendent requests additional information after reviewing such notice, the time limit for the superintendent's decision shall be 30 days after receiving such additional information. In deciding whether to approve, by regulation or order, any proposed service that is not specifically designated in subsection (a) of this section, the superintendent shall consider whether such service would be consistent with applicable federal and state law and the safety and soundness of the principal

and agent depository institutions. The superintendent shall give appropriate notice to the public of each approval, by regulation or order, of any proposed service pursuant to this subsection (c) of this section.

(d) Any proposed service subject to subsection (c) of this section shall be deemed approved if the superintendent takes no action on the notice required by subsection (b) of this section within the time limits specified in subsection (c) of this section.

(e) An Alabama state bank may not under any agency agreement:

(1) Conduct any activity as an agent that it would be prohibited from conducting as a principal under applicable state or federal law; or

(2) Have an agent conduct any activity that the bank as principal would be prohibited from conducting under applicable state or federal law.

(f) The superintendent may order an Alabama state bank or any other depository institution subject to the superintendent's enforcement powers to cease acting as an agent or principal under any agency agreement with a depository institution that the superintendent finds to be inconsistent with safe and sound banking practices.

(g) Notwithstanding any other provision of the law of this state, an Alabama state bank acting as an agent for a depository institution in accordance with this section shall not be considered to be a branch of that depository institution.

Section 10. Penalties.

The superintendent may enforce the provisions of this article by any appropriate action in the circuit courts of this state, including an action for civil money penalties or injunctive relief, provided, that the superintendent shall promptly give notice to the home state regulator of any enforcement action initiated against an out-of-state bank holding company and, to the extent practicable, shall consult and cooperate with the home state regulator in pursuing and resolving the enforcement action.

Section 11. Authority to Issue Regulations; Cooperative Agreements; Fees.

In order to carry out the purposes of this article, the superintendent may:

(a) Adopt regulations;

(b) Enter into cooperative, coordinating, or information-sharing agreements with any other bank supervisory agency or

any organization affiliated with or representing one or more bank supervisory agencies;

(c) Accept any report of examination or investigation by another bank supervisory agency having concurrent jurisdiction over an Alabama state bank or a bank holding company that controls an Alabama state bank in lieu of conducting the superintendent's own examination or investigation of such bank holding company or bank;

(d) Enter into contracts with any bank supervisory agency having concurrent jurisdiction over an Alabama state bank or a bank holding company that controls an Alabama state bank to engage the services of the agency's examiners at a reasonable rate of compensation, or to provide the services of the superintendent's examiners to the agency at a reasonable rate of compensation; which contract shall be deemed a sole source, one vendor and one supplier contract under the procurement laws of this state and shall be exempt from competitive bidding requirements;

(e) Enter into joint examinations or joint enforcement actions with any other bank supervisory agency having concurrent jurisdiction over any Alabama state bank or any bank holding company that controls an Alabama state bank; provided, however, that the superintendent may take any such action independently, except with respect to the examination of an out-of-state bank holding company, if the superintendent determines that such action is necessary to carry out his or her responsibilities under this article or to enforce compliance with the laws of this state; and provided further, that in the case of an out-of-state bank holding company, the superintendent shall recognize the exclusive authority of the home state regulator over corporate governance matters and the primary responsibility of the home state regulator with respect to safety and soundness matters; and

(f) Assess supervisory and examination fees that shall be payable by Alabama banks and Alabama bank holding companies in connection with the superintendent's performance of his or her duties under this article and in accordance with regulations adopted by the superintendent. Such fees may be shared with other bank supervisory agencies or any organizations affiliated with or representing one or more bank supervisory agencies in accordance with agreements between them and the superintendent.

ARTICLE 2

INTERSTATE BANK MERGERS AND BRANCHING

Section 12. Purpose.

It is the express intent of this article to permit interstate branching by merger under Section 102 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, Public Law No. 103-328, in accordance with the provisions set forth in this article.

Section 13. Definitions.

As used in this article, unless a different meaning is required by the context, the following words and phrases shall have the following meanings:

(a) "Alabama bank" means a bank whose home state is Alabama.

(b) "Alabama state bank" means a bank chartered under the laws of Alabama.

(c) "Bank" has the same meaning as set forth in 12 U.S.C. § 1813(h); provided that the term "bank" shall not include any "foreign bank" as defined in 12 U.S.C. § 3101(7), except that such term shall include any foreign bank organized under the laws of a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, the deposits of which are insured by the Federal Deposit Insurance Corporation.

(d) "Bank holding company" has the meaning set forth in 12 U.S.C. § 1841(a)(1).

(e) "Bank supervisory agency" means:

(1) The Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and any successor to these agencies; and

(2) Any agency of another state with primary responsibility for chartering and supervising banks.

(f) "Branch" has the same meaning as "domestic branch" defined in Section 3 of the Federal Deposit Insurance Act; however, an automated teller machine shall not constitute a branch.

(g) "Control" shall be construed consistently with the provisions of 12 U.S.C. § 1841(a)(2).

(h) "Home state" means:

(1) With respect to a national bank, the state in which the main office of the bank is located;

(2) With respect to a state bank, the state by which the bank is chartered;

(3) With respect to a foreign bank, the state determined to be the home state of such foreign bank under 12 U.S.C. § 3103(c).

(i) "Home state regulator" means, with respect to an out-of-state state bank, the bank supervisory agency of the state in which such bank is chartered.

(j) "Host state" means a state, other than the home state of a bank, in which the bank maintains, or seeks to establish and maintain, a branch.

(k) "Insured depository institution" has the meaning set forth in 12 U.S.C. § 1813(c)(2) and (3).

(l) "Interstate merger transaction" means:

(1) The merger or consolidation of banks with different home states, and the conversion of branches of any bank involved in the merger or consolidation into branches of the resulting bank; or

(2) The purchase of all or substantially all of the assets, including all or substantially all of the branches, of a bank whose home state is different from the home state of the acquiring bank.

(m) "Out-of-state bank" means a bank whose home state is a state other than Alabama.

(n) "Out-of-state state bank" means a bank chartered under the laws of any state other than Alabama.

(o) "Resulting bank" means a bank that has resulted from an interstate merger transaction under this article.

(p) "State" means any state, territory, or other possession of the United States, including the District of Columbia.

(q) "Subsidiary" has the meaning set forth in Section 2(d) of the Bank Holding Company Act.

(r) "Superintendent" means the Superintendent of Banks then in office and, where appropriate, all of his or her successors and predecessors in office.

Section 14. Authority of State Banks to Establish Interstate Branches by Merger; Branching.

With the prior approval of the superintendent, an Alabama state bank may establish, maintain, and operate one or more branches in a state other than Alabama or a foreign country pursuant to an interstate merger transaction in which the Alabama state bank is the resulting bank. Not later than the date on which the required application for the interstate merger transaction is filed with the responsible federal bank supervisory agency, the

applicant Alabama state bank shall file an application on a form prescribed by the superintendent and pay the fee prescribed by the superintendent. The applicant shall also comply with the applicable provisions of Alabama law governing mergers of Alabama state banks. If the superintendent finds that (i) the proposed transaction will not be detrimental to the safety and soundness of the applicant or the resulting bank, (ii) any new officers and directors of the resulting bank are qualified by character, experience, and financial responsibility to direct and manage the resulting bank, and (iii) the proposed merger is consistent with the convenience and needs of the communities to be served by the resulting bank in this state and is otherwise in the public interest, it shall approve the interstate merger transaction and the operation of branches outside of Alabama by the Alabama state bank. Such an interstate merger transaction may be consummated only after the applicant has received the superintendent's written approval.

Section 15. Interstate Merger Transactions and Branching Permitted.

(a) One or more Alabama state banks may enter into an interstate merger transaction with one or more out-of-state banks under this article, and an out-of-state bank resulting from such transaction may maintain and operate the branches in Alabama of an Alabama state bank that participated in such transaction, provided that the conditions and filing requirements of this article are met.

(b) Except as otherwise expressly provided in this subsection (b), an interstate merger transaction shall not be permitted under this article if, upon consummation of such transaction, the resulting bank, including all insured depository institutions that would be "affiliates" as defined in 12 U.S.C. § 1841(k) of the resulting bank, would control 30 percent or more of the total amount of deposits held by all insured depository institutions in this state. The superintendent may by regulation, subject to the approval of the banking board, adopt a procedure whereby the foregoing limitation on control of deposits may be waived for good cause shown.

(c) An interstate merger transaction resulting in the acquisition by an out-of-state bank of an Alabama state bank, or all or substantially all of the branches of an Alabama state bank, shall not be permitted under this article unless such Alabama state bank shall have been in continuous operation, on the date of such acquisition, for a period of at least five years. The five-year requirement shall be met if the superintendent determines that the Alabama state bank to be acquired was:

(I) Organized solely for the purpose of facilitating the acquisition of a bank that has been in existence and continuously operating for more than five years, or

(II) Resulted from the merger or consolidation of two or more banks at least one of which had been in existence and continuously operating for more than five years.

(d) An out-of-state bank which is not a resulting bank may not establish or maintain a de novo branch in this state.

(e) Except as permitted by this subsection (e), an out-of-state bank, which is not a resulting bank, shall not establish or maintain a branch in this state through the acquisition of less than all or substantially all of the assets, including all or substantially all of the branches, of an Alabama bank. An out-of-state bank, whether or not a resulting bank, may establish and maintain one or more branches in this state upon approval of the superintendent, with the concurrence of a majority of the members of the banking board, if the superintendent determines that the acquisition of the branch or branches is required because the bank which owns the branch or branches to be acquired is in default or in danger of default or is required by law to divest one or more of its branches, and that the branches have first been offered for sale upon substantially similar terms without success to Alabama banks and out-of-state banks operating branches in Alabama.

(f) An out-of-state bank that has established or acquired a branch in Alabama under this article may establish or acquire additional branches in Alabama to the same extent that any Alabama bank may establish or acquire a branch in Alabama under applicable federal and state law.

Section 16. Notice and Filing Requirements.

Any out-of-state bank that will be the resulting bank pursuant to an interstate merger transaction involving an Alabama state bank shall notify the superintendent of the proposed merger not later than the date on which it files an application for an interstate merger transaction with the responsible federal bank supervisory agency, and shall submit a copy of that application to the superintendent and pay the filing fee, if any, required by the superintendent. Any Alabama state bank which is a party to such interstate merger transaction shall comply with Title 5, Chapter 7A, Code of Alabama 1975, and with other applicable state and federal laws. Any out-of-state bank which shall be the resulting bank in such an interstate merger transaction shall provide satisfactory evidence to the superintendent of compliance with or exemption from Sections 10-2A-15.01, et seq., Code of Alabama 1975.

Section 17. Powers.

(a) An out-of-state state bank which establishes and maintains one or more branches in Alabama under this article may conduct any activities at such branch or branches that are authorized under the laws of this state for Alabama state banks.

(b) An Alabama state bank may conduct any activities at any branch outside Alabama that are permissible for a bank chartered by the host state where the branch is located, except to the extent such activities are expressly prohibited by the laws of this state; provided, however, that the superintendent shall waive any such prohibition unless he or she determines, by order or regulation, that the involvement of out-of-state branches of an Alabama state bank in particular activities would threaten the safety or soundness of the bank.

Section 18. Examinations; Periodic Reports; Cooperative Agreements; Assessment of Fees.

(a) To the extent consistent with subsection (c) of this section, the superintendent may make such examinations of any branch established and maintained in this state pursuant to this article by an out-of-state state bank as the superintendent may deem necessary to determine whether the branch is being operated in compliance with the laws of this state and in accordance with safe and sound banking practices. The provisions of Chapter 3A, Title 5, Code of Alabama 1975, shall apply to such examinations.

(b) The superintendent may prescribe requirements for periodic reports regarding any out-of-state bank that operates a branch in Alabama pursuant to this article. The required reports shall be provided by such bank or by the bank supervisory agency having primary responsibility for such bank. Any reporting requirements prescribed by the superintendent under this subsection (b) shall be (i) consistent with the reporting requirements applicable to Alabama state banks and (ii) appropriate for the purpose of enabling the superintendent to carry out his or her responsibilities under this article.

(c) The superintendent may enter into cooperative, coordinating and information-sharing agreements with any other bank supervisory agencies or any organization affiliated with or representing one or more bank supervisory agencies with respect to the periodic examination or other supervision of any branch in Alabama of an out-of-state state bank, or any branch of an Alabama state bank in any host state, and the superintendent may accept such parties' reports of examination and reports of

investigation in lieu of conducting his or her own examinations or investigations.

(d) The superintendent may enter into contracts with any bank supervisory agency that has concurrent jurisdiction over an Alabama state bank or an out-of-state state bank operating a branch in this state pursuant to this article to engage the services of such agency's examiners at a reasonable rate of compensation, or to provide the services of the superintendent's examiners to such agency at a reasonable rate of compensation. Any such contract shall be deemed a sole source, one vendor and one supplier contract under the procurement laws of the state and shall be exempt from competitive bidding requirements.

(e) The superintendent may enter into joint examinations or joint enforcement actions with other bank supervisory agencies having concurrent jurisdiction over any branch in Alabama of an out-of-state state bank or any branch of an Alabama state bank in any host state; provided, that the superintendent may at any time take such actions independently if the superintendent deems such actions to be necessary or appropriate to carry out his or her responsibilities under this article and to ensure compliance with the laws of this state; but provided further, that, in the case of an out-of-state state bank, the superintendent shall recognize the exclusive authority of the home state regulator over corporate governance matters and the primary responsibility of the home state regulator with respect to safety and soundness matters.

(f) Each out-of-state state bank that maintains one or more branches in this state may be assessed and, if assessed, shall pay supervisory and examination fees in accordance with the laws of this state and regulations of the superintendent. Such fees may be shared with other bank supervisory agencies or any organization affiliated with or representing one or more bank supervisory agencies in accordance with agreements between such parties and the superintendent.

Section 19. Enforcement.

If the superintendent determines that a branch maintained by an out-of-state state bank in this state is being operated in violation of any provision of the laws of this state, or that such branch is being operated in an unsafe and unsound manner, the superintendent shall have the authority to take all such enforcement actions as he or she would be empowered to take if the branch were an Alabama state bank; provided that the superintendent shall promptly give notice to the home state regulator of each enforcement action taken against an out-of-state state bank and, to the extent practicable, shall consult and cooperate with the

home state regulator in pursuing and resolving the enforcement action.

Section 20. Regulations.

The superintendent may promulgate such regulations as he or she determines to be necessary or appropriate in order to implement the provisions of this article.

Section 21. Notice of Subsequent Merger, Etc.

Each out-of-state state bank that has established and maintains a branch in this state pursuant to this article, or the home state regulator of such bank, shall give at least 30 days' prior written notice to the superintendent, or, in the case of an emergency transaction, such shorter notice as is consistent with applicable state or federal law, of any merger, consolidation, or other transaction that would cause a change of control with respect to such out-of-state state bank or any bank holding company that controls such bank, with the result that an application would be required to be filed pursuant to the federal Change in Bank Control Act of 1978, as amended, 12 U.S.C. § 1817(j), or the federal Bank Holding Company Act of 1956, as amended, 12 U.S.C. §§ 1841 et seq., or any successor statutes thereto.

ARTICLE 3

REGULATION OF FOREIGN BANKS

SUBCHAPTER A - General

Section 22. Purpose.

(a) This article is intended generally to provide for state regulation of the participation by foreign banks in the financial markets of this state.

(b) Consistent with the federal International Banking Act, the Bank Holding Company Act, the Federal Deposit Insurance Act, and the Interstate Banking and Branching Efficiency Act, this article is intended specifically:

(1) To authorize banking activities and operations, under state licenses issued by the superintendent, of direct branch and agency offices in this state of foreign banks, generally under terms and conditions not less favorable than the terms and conditions under which such activities and operations may be conducted by federal branch or agency offices of foreign banks in the United States, and to set forth a statutory framework for the licensing, regulation and supervision of such state-licensed offices of foreign banks by the superintendent to assure the safe and sound operation of such offices that are licensed under the laws of this state;

(2) To authorize representative offices in this state of foreign banks, and to set forth statutory provisions governing the licensing and supervision of such offices by the superintendent; and

(3) To ensure that the banking laws and regulations of this state otherwise apply to foreign banks, and to Alabama and out-of-state banks and bank holding companies that are owned or controlled by foreign banks, in a manner consistent with the laws and policies of the United States governing the operations in this country of foreign banks.

Section 23. Definitions.

For purposes of this article:

(a) The term "bank" means any bank as defined in: Section 2(c) of the Bank Holding Company Act (12 U.S.C. § 1841(c)); Section 3(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. § 1813(a)(1)), other than a branch of a foreign bank; or, as the context may require, in Chapter 5A, Title 5, Code of Alabama 1975. The term "bank" as used in this article shall not in any event include a foreign bank or a branch or agency of a foreign bank.

(b) The term "foreign bank" means any company organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, that engages directly in the business of banking. The term includes foreign commercial banks, foreign merchant banks, and other foreign institutions that engage in banking activities usual in connection with the business of banking in the countries where such foreign institutions are organized or operating.

(c) The term "out-of-state bank" means a bank, the home state of which is a state other than Alabama.

(d) The term "out-of-state foreign bank" means a foreign bank, the home state of which is a state other than Alabama.

(e) The term "Alabama state bank" means a bank organized under the laws of Alabama.

(f) The term "Alabama national bank" means a national banking association having its headquarters within Alabama.

(g) The term "Alabama bank" means an Alabama state bank or an Alabama national bank.

(h) The terms "bank holding company," "subsidiary," and "affiliate," have the same meaning as set forth in Section 2 of the Bank Holding Company Act (12 U.S.C. § 1841), the term "control" shall be construed consistently with the provisions of Section

2(a)(2) of the Bank Holding Company Act (12 U.S.C. § 1841(a)(2)), and the term "depository institution" means any institution that is included for any purpose within the definitions of "insured depository institution" as set forth in Sections 3(c)(2) and 3(c)(3) of the Federal Deposit Insurance Act (12 U.S.C. § 1813(c)(2) and (3)).

(i) The term "out-of-state bank holding company" means a bank holding company, the home state of which is a state other than Alabama.

(j) The term "state" has the same meaning as is set forth in Section 3(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. § 1813(a)(3)).

(k) The term "home state" has the same meaning in reference to national banks, state banks, and bank holding companies as is set forth in Section 44(f)(4) of the Federal Deposit Insurance Act (12 U.S.C. § 1831u), and the same meaning in reference to foreign banks as is set forth in Section 5(c) of the federal International Banking Act (12 U.S.C. § 3103(c)).

(l) The term "foreign person" means a natural or juridical person who is a citizen or national of one or more countries, including any colonies, dependencies, or possessions of such countries, other than the United States.

(m) The term "branch," when used in reference to an office of a foreign bank, shall have the same meaning as set forth in Section 1(b)(3) of the federal International Banking Act (12 U.S.C. § 3101(3)), and when used in reference to an office of a bank as defined in this section, shall have the same meaning as "domestic branch" set forth in Section 3(o) of the Federal Deposit Insurance Act (12 U.S.C. § 1813(o)).

(n) The term "interstate branch" means a branch of a bank or a branch of a foreign bank, as the context may require, which is, or is to be, established after September 29, 1994, pursuant to the authority contained in the Interstate Banking and Branching Efficiency Act, outside the home state of the bank or foreign bank. In the case of a foreign bank, the term shall not include a limited branch.

(o) The term "limited branch" means a branch of a foreign bank that accepts only such deposits as would be permissible for a corporation organized under Section 25A of the Federal Reserve Act in accordance with the provisions of Section 5(a)(7) of the federal International Banking Act (12 U.S.C. § 3103(a)(7)).

(p) The term "agency," when used in reference to an office of a foreign bank, shall have the same meaning as is set forth in

Section 1(b)(1) of the federal International Banking Act (12 U.S.C. § 3101(1)).

(q) The term "federal branch" means a branch of a foreign bank that is licensed by the Comptroller of the Currency pursuant to the provisions of Section 4 of the federal International Banking Act (12 U.S.C. § 3102).

(r) The term "federal agency" means an agency of a foreign bank that is licensed by the Comptroller of the Currency pursuant to the provisions of Section 4 of the federal International Banking Act (12 U.S.C. § 3102).

(s) The term "Alabama state branch," when used in reference to an office of a foreign bank, shall mean a branch of a foreign bank that is located in this state and licensed pursuant to the provisions of Subchapter C of this article.

(t) The term "Alabama state agency," when used in reference to an office of a foreign bank, shall mean an agency of a foreign bank that is located in this state and licensed pursuant to the provisions of Subchapter C of this article.

(u) The term "representative office" shall have the same meaning as is set forth in Section 1(b)(15) of the federal International Banking Act (12 U.S.C. § 3101(15)), and the term "Alabama representative office" shall mean any such office that is located in this state.

(v) The term "United States," when used in a geographical sense, means the several states, the District of Columbia, Puerto Rico, Guam, American Samoa, the American Virgin Islands, the Trust Territory of the Pacific Islands, and any other territory of the United States; and, when used in a political sense, means the federal government of the United States.

(w) The term "Bank Holding Company Act" means the federal Bank Holding Company Act of 1956, as amended (12 U.S.C. §§ 1841 et seq.).

(x) The term "Federal Deposit Insurance Act" means the Federal Deposit Insurance Act, as amended (12 U.S.C. §§ 1813 et seq.).

(y) The term "federal International Banking Act" means the federal International Banking Act of 1978, as amended (12 U.S.C. §§ 3101 et seq.).

(z) The term "Interstate Banking and Branching Efficiency Act" means the federal Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, Public Law No. 103-328, 108

Stat. 2338-2381 (September 29, 1994), codified at various sections of Title 12, United States Code.

(aa) The term "superintendent" means the superintendent then in office and, where appropriate, all of his or her successors and predecessors in office.

(bb) The term "bank supervisory agency" means:

(1) The Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and any successor to these agencies;

(2) Any agency of another state with primary responsibility for chartering and supervising banks; and

(3) Any agency of a country, including any colonies, dependencies, possessions, or political subdivisions thereof, other than the United States.

Section 24. General Regulation Authority.

The superintendent, with the concurrence of a majority of the members of the State Banking Board, is authorized and empowered to issue such rules, regulations, and orders as the superintendent may deem necessary in order to perform his or her duties and functions under this article and to administer and carry out the provisions and purposes of this article and to prevent evasions thereof.

SUBCHAPTER B - Domestic Banks Owned or Controlled by Foreign Banks and other Foreign Persons

Section 25. Purpose.

This subchapter is generally intended to ensure that the laws and regulations of this state applicable to the ownership and operations of Alabama banks, and interstate branches in this state of out-of-state banks, do not discriminate against such banks that are owned or controlled by foreign banks or other foreign persons in a manner inconsistent with the provisions of Section 3(d) of the Bank Holding Company Act (12 U.S.C. § 1842(d)), as amended effective September 29, 1995, by Section 101 of the Interstate Banking and Branching Efficiency Act, or with other laws and policies of the United States.

Section 26. Operations in this State of Banks Owned or Controlled by Foreign Banks and other Foreign Persons.

(a) Except as provided in subsection (b) of this section:

(1) The laws and regulations of this state governing the acquisition or ownership of controlling or other interests in Alabama

banks or in out-of-state banks seeking to establish and maintain one or more interstate branches in this state shall not generally prohibit ownership of such institutions by, or otherwise discriminate against, foreign banks or other foreign persons, notwithstanding any provision of the laws or regulations of this state to the contrary;

(2) The laws and regulations of this state governing the powers and activities of Alabama banks and of out-of-state banks maintaining one or more interstate branches in this state shall not discriminate among such banks on the basis of their ownership or control by foreign banks or other foreign persons, notwithstanding any provision of the laws or regulations of this state to the contrary.

(b) Notwithstanding the provisions of subsection (a), the superintendent is authorized to apply any standards or requirements of the laws and regulations of this state governing the ownership, control, or operations of Alabama banks, even if applicable specifically or exclusively to foreign banks or other foreign persons, to the extent such standards or requirements are determined by regulation or order of the superintendent to be either:

(1) Substantially equivalent to or consistent with the standards or requirements governing the ownership, control, or operations of Alabama banks by foreign banks or other foreign persons under applicable U.S. federal laws or regulations, or

(2) Otherwise consistent with the laws and policies of the United States, including its international agreements governing financial services.

Section 27. Citizenship and Residency Requirements for Directors of State Banks.

Notwithstanding any other provision of the laws and regulations of this state, the citizenship and residency requirements otherwise applicable to members of the board of directors of any Alabama bank may, in the case of an Alabama bank which is a subsidiary or affiliate of a foreign bank, be waived by the superintendent in his or her discretion upon application by the controlling shareholder of the Alabama bank; provided that at least a majority of the directors shall be citizens of the United States and at least 25 percent of the directors shall be residents of this state.

SUBCHAPTER C - Direct Branch, Agency, and Representative Offices of Foreign Banks

Section 28. Purpose.

(a) Consistent with the federal International Banking Act, the Bank Holding Company Act, the Federal Deposit Insurance Act, and the Interstate Banking and Branching Efficiency Act, this subchapter is intended:

(1) To authorize banking activities and operations, under state licenses issued by the superintendent, of direct branch and agency offices in this state of foreign banks, generally under terms and conditions not less favorable than the terms and conditions under which such activities and operations may be conducted by federal branch or agency offices of foreign banks in the United States, and to set forth a statutory framework for the licensing, regulation, and supervision of such state-licensed offices of foreign banks by the superintendent to assure the safe and sound operation of such offices that are licensed under the laws of this state; and

(2) To authorize representative offices in this state of foreign banks, and to set forth statutory provisions governing the licensing and supervision of such offices by the superintendent.

Section 29. Branches and Agencies of Foreign Banks - Necessity of Licensure.

(a) No foreign bank shall transact business in this state except at an Alabama state branch or Alabama state agency which it is licensed to establish and maintain pursuant to, and at which it conducts such activities as are permitted by, this article.

(b) Subsection (a) shall not be deemed to prohibit:

(1) Any foreign bank which maintains a federal agency or federal branch in this state from transacting at such federal agency or federal branch such business as it may be authorized to transact under applicable federal laws and regulations; or

(2) Any foreign bank which does not maintain an Alabama state branch or Alabama state agency from making in this state loans secured by liens on real property located in this state; or

(3) Any foreign bank which maintains an Alabama branch or agency from transacting business as agent for an affiliated depository or other institution in accordance with provisions of this article; or

(4) Any foreign bank organized under the laws of a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, the deposits of which are insured by the Federal Deposit Insurance Corporation, from establishing and operating an interstate branch in this state in its capacity as a "state bank" as defined in the Federal Deposit Insurance Act, pursuant to the authorities contained in that act and in the laws of this state.

(c) For purposes of subsection (a), no foreign bank shall be deemed to be transacting business in this state merely because a subsidiary or affiliate transacts business in this state.

Section 30. Application to Establish and Maintain a Branch or Agency - Contents.

(a) A foreign bank, in order to procure a license under this article to establish and maintain an Alabama state branch or Alabama state agency shall submit an application to the superintendent. Such application shall contain:

(1) The same information as required by the Board of Governors of the Federal Reserve System for an application to establish a branch or agency, as the case may be, in the United States; and

(2) Such additional information as the superintendent may require by regulation or order.

(b) In addition to the information required to be included in an application for a license to establish and maintain an Alabama state branch or Alabama state agency listed in subsection (a), the superintendent may as he or she deems necessary or appropriate require a foreign bank to include as part of such an application an instrument irrevocably appointing the superintendent and his or her successors in office to be such foreign bank's agent, representative, and attorney to receive service of any lawful process in any proceeding against the foreign bank or any of its successors which arises out of the foreign bank's activities in this state after such appointment has been filed, with the same force and validity as if served on the foreign bank or its successor, as the case may be. Such appointment shall be in such form and contain such information as the superintendent may require by regulation or order.

Section 31. Application to Establish and Maintain a Branch or Agency - Manner of Filing and Determination.

(a) A foreign bank making an application under this article for a license to establish and maintain an Alabama state branch or Alabama state agency shall deliver to the superintendent:

(1) At least two, or more as the superintendent may require by regulation, duplicate originals of the foreign bank's application; and

(2) At least two, or more as the superintendent may require by regulation, copies of its charter or articles of incorporation and all amendments thereto, duly authenticated by the proper officer of the country of such foreign bank's organization.

(b) The superintendent shall issue a license to a foreign bank to establish and maintain an Alabama state branch or Alabama state agency if he or she finds that:

(1) The foreign bank is of good character and sound financial standing;

(2) The management of the foreign bank and the proposed management of the Alabama state branch or Alabama state agency are adequate;

(3) The convenience and needs of persons to be served by the proposed Alabama state branch or Alabama state agency will be promoted; and

(4) The foreign bank satisfies such other standards as the superintendent may establish by regulation.

(c) If the superintendent determines to issue a license to a foreign bank to establish and maintain an Alabama state branch or Alabama state agency, he or she shall, when all fees have been paid as required under this article:

(1) Endorse on each document filed as part of the application the word "Filed," and the date of the filing thereof and return to the foreign bank a copy of each document so endorsed;

(2) File in his or her office one of such duplicate originals of the application and copies of the charter or articles of incorporation and amendments thereto; and

(3) Issue a license to establish and maintain an Alabama state branch or Alabama state agency to such foreign bank.

(d) Each license issued to a foreign bank to establish and maintain an Alabama state branch or Alabama state agency shall state fully the name of the foreign bank to which such license is issued and all such other information as the superintendent may require by regulation or order.

(e) The superintendent may, by regulation or order, prescribe abbreviated application procedures and standards applicable to applications by foreign banks that have already established an initial Alabama state branch or agency, subsequently to establish additional intrastate Alabama state branches or agencies, as the case may be.

Section 32. Application Fee.

Upon applying to the superintendent under this article for a license to establish and maintain an Alabama state branch or Alabama state agency, a foreign bank shall pay to the superintendent an application fee in such amount and in such manner as the superintendent shall require by regulation.

Section 33. No Concurrent Maintenance of Federal Branches or Agencies.

(a) No foreign bank which is licensed under this article to establish and maintain an Alabama state branch or Alabama state agency shall concurrently maintain a federal branch or federal agency in this state.

(b) No foreign bank which maintains a federal branch or federal agency in this state shall concurrently be licensed under this article to maintain an Alabama state branch or Alabama state agency.

Section 34. Powers of Branch and Agency.

(a) Except as otherwise specifically provided in this subchapter or in regulations or orders adopted by the superintendent, and notwithstanding any other law or regulation of this state to the contrary, operations of a foreign bank at an Alabama state branch or Alabama state agency shall be conducted with the same rights, privileges, and powers as an Alabama state bank at the same location, including, but not limited to, the eligibility to exercise fiduciary or trust powers, and shall be subject to all the same duties, restrictions, penalties, liabilities, conditions, and limitations that would apply under the laws of this state to an Alabama state bank doing business at the same location.

(b) Among other exceptions to the provisions of subsection (a) that may be required or authorized by the superintendent pursuant to the provisions of this subchapter:

(1) An Alabama state branch that was not grandfathered as an "insured branch" within the meaning of Section 6(c)(2) of the federal International Banking Act (12 U.S.C. § 3104(c)(2)) may not accept, from citizens or residents of the United States, deposits, other than credit balances that are incidental to or arise out of its exercise of other lawful banking powers, of less than one hundred thousand dollars ($100,000), except to the extent that such deposits are determined by the Federal Deposit Insurance Corporation not to constitute "domestic retail deposit activities requiring deposit insurance protection" within the meaning of Section 6 of the federal International Banking Act (12 U.S.C. § 3104);

(2) An Alabama state agency may not accept any deposits from citizens or residents of the United States, other than credit balances that are incidental to or arise out of its exercise of other lawful banking powers, but it may accept deposits from persons who are neither citizens nor residents of the United States;

(3) An Alabama state branch or Alabama state agency shall not be required to maintain federal or state deposit insurance under any law, regulation, or order of this state that requires Alabama state banks and other depository institutions to maintain

such deposit insurance, and the superintendent may, by regulation or order, exclude or exempt uninsured Alabama state branches and/or Alabama agencies from, or otherwise modify the applicability to uninsured Alabama state branches and/or Alabama agencies of, any law or regulation of this state that is generally applicable to insured Alabama state banks, or that would otherwise be applicable to an insured Alabama state bank doing business at the same location, as the superintendent may deem necessary or desirable, taking into account applicable limitations on the retail deposit-taking powers and privileges of Alabama state branches and Alabama agencies;

(4) Any limitation or restriction based on the capital stock and surplus of an Alabama state bank shall be deemed to refer, as applied to an Alabama state branch or Alabama state agency, to the dollar equivalent of the capital stock and surplus of the foreign bank, and if the foreign bank has more than one Alabama state branch or Alabama state agency in this state, the business transacted by all such Alabama state branches and Alabama state agencies shall be aggregated in determining compliance with the limitation; and

(5) The superintendent is expressly authorized to adopt such additional or modify the applicability of any existing standards, conditions, or requirements, by regulation or order, as he or she may deem necessary to ensure the safety and soundness and the protection of creditors of the operations of branches and agencies of foreign banks in this state.

Section 35. Fiduciary Activities.

(a) No foreign bank which is licensed to establish and maintain an Alabama state branch or Alabama state agency shall engage in fiduciary activities at such office unless such foreign bank shall have first obtained a certificate of authority from the superintendent to engage in fiduciary activities at such office.

(b) An application to obtain a certificate of authority to engage in fiduciary activities shall be in such form and contain such information, and be accompanied by such reasonable fee, as the superintendent may require by regulation. The superintendent shall issue a certificate of authority to engage in fiduciary activities to a foreign bank making an application under this section if he or she finds that such foreign bank will exercise fiduciary powers in accordance with the laws and regulations of this state.

(c) A foreign bank which holds a certificate of authority issued under this section may engage at its Alabama state branch or Alabama state agency in fiduciary activities to the same extent

and in the same manner as if such foreign bank were an Alabama state bank.

(d) A foreign bank which holds a certificate of authority issued under this section shall file all such reports, pay all such reasonable fees, and be subject to examination and supervision as the superintendent may determine by regulation.

(e) The superintendent may suspend or revoke a certificate to engage in fiduciary activities issued under this section if he or she finds:

(1) That conditions exist which would authorize the superintendent under this article to revoke or suspend such foreign bank's license to establish and maintain an Alabama state branch or Alabama state agency; or

(2) Any fact or condition exists which, if it had existed at the time of the foreign bank's original application to obtain a certificate of authority to engage in fiduciary activities, would have resulted in the superintendent's refusal to issue such certificate of authority to the foreign bank.

Section 36. Authority to Act as Agent.

(a) An Alabama state branch or Alabama state agency of a foreign bank licensed under this article may receive deposits, renew time deposits, close loans, service loans, and receive payments on loans and other obligations as an agent for any depository institution affiliate of such foreign bank, including branch, agency, and other offices of the same foreign bank located in other states, generally in accordance with the same terms, conditions, procedures, and requirements that are applicable under the laws and regulations of this state to such agency activities that may be conducted by Alabama state banks.

(b) Notwithstanding any other provision of the laws or regulations of this state, an Alabama state branch or Alabama state agency of a foreign bank acting in this state as an agent in accordance with the provisions of this section shall not be considered to be a branch of such other depository institution affiliate; provided, however, that no Alabama state branch or Alabama agency shall be authorized by this section to act as agent for a branch or agency of an affiliated foreign bank other than the foreign bank which has been licensed to transact business in this state pursuant to this article.

(c) An Alabama state branch or Alabama state agency of a foreign bank licensed under this article may not:

(1) Conduct any activity as an agent under this section which such office is prohibited from conducting as a principal under any applicable federal or state law, including, but not limited to, the acceptance of impermissible deposits; or

(2) As a principal, have an agent conduct any activity under this section which such office is prohibited from conducting under any applicable federal or state law, including, but not limited to, the acceptance of impermissible deposits.

(d) An agency relationship between an Alabama state branch or Alabama state agency of a foreign bank licensed under this article and a depository institution affiliate of such foreign bank shall in any event be on terms that are consistent with safe and sound banking practices and all applicable regulations and orders of the superintendent.

Section 37. Representative Office of Foreign Banks - Necessity of Licensure.

(a) No foreign bank shall establish or maintain an Alabama representative office unless such foreign bank is licensed by the superintendent to maintain such an Alabama representative office.

(b) Nothing in subsection (a) shall be deemed to prohibit a foreign bank which maintains a federal agency or federal branch in this state from establishing or maintaining one or more Alabama representative offices.

Section 38. Representative Office - Application.

(a) The application for a license to establish and maintain an Alabama representative office shall be in writing under oath and shall be in such form and contain such information as the superintendent may require by regulation or order. The application shall be accompanied by a reasonable fee as the superintendent may establish by regulation.

(b) The superintendent shall require a foreign bank to include as part of its application to establish and maintain an Alabama representative office an instrument irrevocably appointing the superintendent and his or her successors in office to be such foreign bank's agent, representative, and attorney to receive service of any lawful process in any proceeding against such foreign bank or any of its successors which arises out of a transaction with its Alabama representative office, with the same force and validity as if served on the foreign bank or its successor, as the case may be. Such appointment shall be in such form and contain such information as the superintendent may require by regulation or order.

Section 39. Representative Office - Factors for Approval of Application.

(a) A foreign bank making an application for a license to establish and maintain an Alabama representative office shall deliver to the superintendent two, or more as the superintendent may require by regulation, duplicate originals of the foreign bank's application.

(b) The superintendent shall issue a license to a foreign bank to establish and maintain an Alabama representative office if he or she finds that:

(1) The foreign bank is of good character and sound financial standing;

(2) The management of the foreign banks and the proposed management of the Alabama representative office are adequate; and

(3) The convenience and needs of persons to be served by the proposed Alabama representative office will be promoted.

(c) If the superintendent determines to issue a license to a foreign bank to establish and maintain an Alabama representative office, he or she shall, when all fees have been paid as required under this article:

(1) Endorse on each duplicate original of the application the word "Filed," and the date of the filing thereof and return to the foreign bank one such duplicate original so endorsed;

(2) File in his or her office one of such duplicate originals of the application; and

(3) Issue a license to establish and maintain an Alabama representative office to such foreign bank.

(d) Each license issued to a foreign bank to establish and maintain an Alabama representative office shall state fully the name of the foreign bank to which such license is issued, the address or addresses at which such Alabama representative office is to be located and all such other information as the superintendent may require by regulation.

Section 40. Representative Office - Permissible Activities.

(a) A foreign bank which is licensed to establish and maintain an Alabama representative office may, subject to such regulations as the superintendent may prescribe, engage in the following activities:

(1) Solicitation for loans and in connection therewith the assembly of credit information, making of property inspections and appraisals, securing of title information, preparation of applications for loans including making recommendations with respect to action thereon, solicitation of investors to purchase loans from the foreign bank, and the search for such investors to contract with the foreign bank for servicing of such loans;

(2) The solicitation of new business;

(3) The conduct of research; and

(4) Back office administrative functions as may be more specifically defined in regulations issued by the superintendent.

Any other activity which the foreign bank seeks to conduct at such office shall be subject to the prior written approval of the superintendent by general regulation or upon application in such form as the superintendent shall require by regulation or order.

(b) Notwithstanding subsection (a), an Alabama representative office may engage in credit approval activities provided that the foreign bank (i) give 45 days prior written notice to the superintendent; and (ii) the superintendent does not object within such 45-day period to the conduct of such activities by the Alabama representative office. Written notice under this subsection (b) shall be in such a form and contain such information as the superintendent shall require by regulation or order.

Section 41. Representative Office - Revocation of License.

The superintendent, after notice and opportunity for a hearing, may revoke a license to establish and maintain an Alabama representative office if he or she finds:

(a) The foreign bank has violated any provision of this article or any other law, rule, or regulation of this state; or

(b) Any fact or condition exists which, if it had existed at the time of the foreign bank's original application for such license, would have resulted in the superintendent's refusal to issue such license to the foreign bank.

Section 42. Posting of License.

Each foreign bank which is licensed to establish and maintain an Alabama state branch, Alabama state agency, or Alabama representative office shall post its license in a conspicuous place at such office.

Section 43. Licenses Not Transferable.

No license issued by the superintendent in accordance with this article shall be transferable or assignable.

Section 44. Appointment of Superintendent as Agent for Service of Process.

(a) A foreign bank which is licensed to establish and maintain an Alabama state branch, Alabama state agency, or Alabama representative office shall file with the superintendent an instrument irrevocably appointing the superintendent and his or her successors in office to be such foreign bank's agent, representative, and attorney to receive service of any lawful process in any judicial or administrative proceeding against the foreign bank or any of its successors which arises out of the foreign bank's activities in this state after such appointment has been filed, with the same force and validity as if served directly on the foreign bank or its successor, as the case may be. Such appointment shall be in such form and contain such information as the superintendent may require by regulation or order.

(b) Any foreign bank which establishes an Alabama state branch, Alabama state agency, or Alabama representative office and which has not filed with the superintendent an instrument pursuant to subsection (a) of this section shall be deemed by the establishment of such office to have appointed the superintendent as its agent, representative, and attorney to receive service of any lawful process in any judicial or administrative proceeding against the foreign bank or any of its successors which arises out of the foreign bank's activities in this state, with the same force and validity as if served directly on the foreign bank or its successor, as the case may be.

Section 45. Service of Process.

(a) Service of any lawful process in any judicial or administrative proceeding against the foreign bank or any of its successors which arises out of the foreign bank's activities in this state shall be made on the superintendent by delivering to and leaving with him or her, or with any official having charge of his or her office, duplicate copies of such process, notice, or demand. If any process, notice, or demand is served on the superintendent, he or she shall immediately cause a copy thereof to be forwarded by registered mail addressed to such foreign bank at its principal office as the same appears in his or her records. Any service so had on the superintendent shall be returnable in not less than 30 days.

(b) Nothing in this article limits or affects the right to serve any process, notice, or demand required or permitted by law to be served upon a foreign corporation in any other manner now or hereafter permitted by law.

(c) The superintendent shall keep a record of all processes, notices, and demands served upon him or her under this section and shall record therein the time of such service and his or her action with reference thereto.

Section 46. Filing of Amendments to Articles of Incorporation.

A foreign bank which is licensed to maintain an Alabama state branch or Alabama state agency, whenever its articles of incorporation are amended, shall forthwith file in the office of the superintendent a copy of such amendment duly authenticated by the proper officer of the country of such foreign bank's organization, but the filing thereof may not of itself enlarge or alter the purpose or purposes for which such foreign bank is authorized to pursue in the transaction of its business in this state, nor authorize such foreign bank to transact business in this state under any name other than the name set forth in its license, nor extend the duration of its corporate existence.

Section 47. Amended License to Establish and Maintain a Branch or Agency.

(a) A foreign bank which is licensed to establish and maintain an Alabama state branch or Alabama state agency must secure an amended license if it changes its corporate name, changes the duration of its corporate existence, or desires to pursue in this state other or additional purposes than those set forth in its prior application under this article for a license, by making application therefor to the superintendent.

(b) The requirements with respect to the form and contents of an application under subsection (a), the manner of its execution, the filing of duplicate originals thereof with the superintendent, the issuance of an amended license and the effect thereof shall be the same as in the case of an initial application for a license to establish and maintain an Alabama state branch or Alabama state agency.

Section 48. Change of Control of Foreign Bank.

A foreign bank which is licensed to establish and maintain an Alabama state branch, Alabama state agency, or Alabama representative office shall file with the superintendent a notice, in such form and containing such information as the superintendent may prescribe, no later than 14 calendar days after such foreign bank becomes aware of any acquisition of control of such foreign bank or merges with another foreign bank.

Section 49. Relocation of Office; Written Notice Necessary.

(a) No foreign bank which is licensed to establish and maintain an Alabama state branch, Alabama state agency, or Alabama representative office shall relocate any such office unless the foreign bank provides prior written notice to the superintendent and the superintendent shall have approved such relocation.

(b) Written notice provided by a foreign bank under this section shall be in such form and contain such information as the superintendent shall require by regulation or order.

Section 50. Examination; Payment of Fees.

(a) An Alabama state branch, Alabama state agency, or Alabama representative office shall be subject to examination by the superintendent at such intervals and in such a manner as he or she shall establish by regulation or order.

(b) In conducting an examination pursuant to this section, the superintendent shall:

(1) Have full access to the offices, books, accounts, and records of each office located in this state, as well as all of the books, accounts, and records maintained in this state of any office not located in this state of such foreign bank; and

(2) Have authority to require the attendance of and to examine under oath all persons whose testimony may be required relative to the activities of such office.

(c) A foreign bank which is licensed to establish and maintain an Alabama state branch, Alabama state agency, or Alabama representative office shall be assessed a reasonable fee for the expenses incurred by the superintendent in making an examination of such office. Such fee shall be assessed in an amount and in a manner as the superintendent shall establish by regulation.

(d) A foreign bank which is licensed to establish and maintain an Alabama state branch, Alabama state agency, or Alabama representative office shall be subject to all reasonable fees and expenses in such amounts as the superintendent may require by regulation.

Section 51. Supervision and Enforcement.

(a) The superintendent shall have all of the powers granted to him or her by the laws of this state to the extent appropriate to enable him or her to supervise each Alabama state branch, Alabama state agency, or Alabama representative office.

(b) If, after notice and a hearing, the superintendent finds that any person has violated any provision of this article or of any

regulation or order issued under this article, he or she may, in addition to any other remedy or action available to the superintendent under the laws of this state, order such person to pay to the superintendent a civil penalty in such a manner and in such an amount as the superintendent shall determine in accordance with the laws of this state and regulations thereunder.

(c) In order to carry out the purposes under this article, the superintendent may:

(1) Enter into cooperative, coordinating, or information-sharing agreements with any other bank supervisory agency or any organization affiliated or representing one or more bank supervisory agencies;

(2) With respect to periodic examination or other supervision of a foreign bank that maintains an Alabama state branch, Alabama state agency, or Alabama representative office, accept reports of examinations performed by, and reports submitted to, other bank supervisory agencies in lieu of conducting examinations, or of receiving reports, as might otherwise be required under this subchapter;

(3) Enter into joint examinations or joint enforcement actions with any other bank supervisory agency having concurrent jurisdiction over any foreign bank, provided, however, that the superintendent may at any time take any such actions independently if the superintendent determines that such actions are necessary or appropriate to carry out his or her responsibilities under this article and to ensure compliance with the laws of this state;

(4) Enter into contracts with any bank supervisory agency having concurrent regulatory or supervisory jurisdiction over a foreign bank maintaining an Alabama state branch, Alabama state agency, or Alabama representative office, to engage the services of such agency's examiners at a reasonable rate of compensation or provide the services of the superintendent's examiners at a reasonable rate of compensation, which contract shall be deemed a sole source, one vendor and one supplier contract under the procurement laws of this state and shall be exempt from competitive bidding requirements; and

(5) Assess supervisory and examination fees that shall be payable by foreign banks maintaining an Alabama state branch, Alabama state agency, or Alabama representative office in connection with the superintendent's performance of his or her duties under this article and in accordance with regulations adopted by the superintendent.

(d) Supervisory or examination fees assessed by the superintendent in accordance with the provisions of this article may be

shared with other bank supervisory agencies or any organizations affiliated with or representing one or more bank supervisory agencies in accordance with agreements between the superintendent and such agencies or organizations.

Section 52. Reports.

(a) Each foreign bank which is licensed to establish and maintain an Alabama state branch, Alabama state agency, or Alabama representative office shall file with the superintendent such reports as and when the superintendent may require by regulation or order.

(b) Each report filed with the superintendent under this article or under any regulation or order issued under this article shall be in such form and contain such information, shall be signed in such manner, and shall be verified in such manner, as the superintendent may require by regulation or order.

Section 53. Confidentiality of Examination Reports.

(a) All reports of examinations and investigations, correspondence, and memoranda concerning or arising out of such examinations and investigations, including any duly authenticated copy or copies thereof in the possession of any foreign bank, shall not be subject to subpoena and shall not be made public unless, in the judgment of the superintendent, the public advantage will be served by the publication thereof, in which event the superintendent may publish or authorize the publication of a copy of any such report or any part thereof in such manner as may be deemed proper.

(b) For the purposes of this section, reports of examination shall include reports of examinations conducted by any bank supervisory agency which are considered confidential by such agency and which are in possession of the superintendent.

Section 54. Books, Accounts, and Records.

Each foreign bank which is licensed to establish and maintain an Alabama state branch, Alabama state agency, or Alabama representative office shall maintain or make available at any such office appropriate books, accounts, and records reflecting (i) all transactions effected by or on behalf of such office and (ii) all actions taken in this state by employees of the foreign banking corporation located in this state to effect transactions on behalf of any office of such foreign bank located outside this state.

Section 55. Separate Assets.

(a) Each foreign bank which is licensed to establish and maintain an Alabama state branch or Alabama state agency in this

state shall keep the assets of its business in this state separate and apart from the assets of its business outside this state.

(b) The creditors of a foreign bank arising out of transactions with, and recorded on the books of, its Alabama state branch or Alabama state agency shall be entitled to absolute preference and priority over creditors of such foreign bank offices located outside of Alabama with respect to the assets of such foreign bank's offices in this state.

Section 56. Disclosure of Lack of Deposit Insurance.

Each foreign bank which is licensed to establish and maintain an Alabama state branch or Alabama state agency shall, in a manner established by the superintendent by regulation or order, give notice that deposits and credit balances in such office are not insured by the Federal Deposit Insurance Corporation.

Section 57. Limitations on Payment of Interest on Deposits.

A foreign bank which is licensed to establish and maintain an Alabama state branch or Alabama state agency shall be subject to the same limitations with respect to the payment of interest on deposits as a state bank which is a member of the Federal Reserve System.

Section 58. Pledge of Assets.

(a) Each foreign bank which is licensed to establish and maintain an Alabama state branch or Alabama state agency shall keep on deposit, in accordance with such regulations or orders as the superintendent shall promulgate, with such unaffiliated Alabama banks as such foreign bank may designate and the superintendent may approve, interest-bearing stocks and bonds, notes, debentures, or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States, or of this state, or of a city, county, town, village, school district, or instrumentality of this state or guaranteed by this state, or dollar deposits, or obligations of the International Bank for Reconstruction and Development, or obligations issued by the InterAmerican Development Bank, or obligations of the Asian Development Bank, or obligations issued by the African Development Bank, or such other assets as the superintendent shall by regulation or order permit, to an aggregate amount to be determined by the superintendent, based upon principal amount or market value, whichever is lower, in the case of the above-described securities, and subject to such limitations as he or she shall prescribe.

(b) The superintendent may from time to time require that the assets deposited pursuant to this section may be maintained by the foreign bank in such amount, in such form and subject to such conditions as he or she shall deem necessary or desirable for the maintenance of a sound financial condition, the protection of depositors and the public interest, and to maintain public confidence in the business of such Alabama state branch or Alabama state agency. The superintendent may give credit to reserves required to be maintained with a federal reserve bank in or outside this state pursuant to federal law, in accordance with such regulations or procedures as the superintendent may promulgate.

(c) So long as it shall continue business in the ordinary course, such foreign bank shall be permitted to collect interest on the securities deposited under this section and from time to time exchange, examine, and compare such securities.

Section 59. Asset Maintenance.

(a) Each foreign bank which is licensed to establish and maintain an Alabama state branch or Alabama state agency shall hold in this state currency, bonds, notes, debentures, drafts, bills of exchange, or other evidences of indebtedness, including loan participation agreements or certificates, or other obligations payable in the United States or in United States funds or, with the prior approval of the superintendent, in funds freely convertible into United States funds, or such other assets as the superintendent shall by regulation or order permit, in an amount which shall bear such relationship as the superintendent shall by regulation or order prescribe to liabilities of such foreign bank payable at or through its Alabama state branch or Alabama state agency, including acceptances, but excluding amounts due and other liabilities to other offices, agencies, or branches of, and wholly owned, except for a nominal number of directors' shares, subsidiaries of, such foreign bank and such other liabilities as the superintendent shall determine.

(b) The superintendent is specifically authorized, in implementing the provisions of this section, to:

(1) Vary the ratio of assets to liabilities for Alabama branches or Alabama agencies, applicable under this section, of certain foreign banks as may be determined by the superintendent in his or her sole discretion to be necessary or desirable to reflect differences among such Alabama branches or Alabama agencies on account of:

(A) The financial condition of Alabama branch or agency offices of the foreign bank,

(B) The financial condition of branch or agency offices of the same foreign bank located in other states,

(C) General economic conditions prevalent in the home country of the parent foreign bank, or

(D) The financial condition of the parent foreign bank itself, including, but not limited to: (i) the financial condition of its branches and agencies located in other countries, (ii) the financial condition of its affiliated bank and nonbank subsidiaries in the United States, and (iii) the financial condition of the foreign bank on a worldwide consolidated basis or in its home country.

(c) For the purposes of this section, the superintendent shall value marketable securities at principal amount or market value, whichever is lower, shall have the right to determine the value of any non-marketable bond, note, debenture, draft, bill of exchange, other evidence of indebtedness, including loan participation agreements or certificates, or of any other asset or obligation held or owed to the foreign bank or its Alabama state branch or Alabama state agency in this state, and in determining the amount of assets for the purpose of computing the above ratio of assets to liabilities, shall have the power by regulation or order to exclude in whole or in part any particular asset.

(d) If, by reason of the existence or the potential occurrence of unusual and extraordinary circumstances, the superintendent deems it necessary or desirable for the maintenance of a sound financial condition, the protection of depositors, creditors, and the public interest, and to maintain public confidence in the business of an Alabama state branch or Alabama state agency, he or she may, subject to such terms and conditions as he or she may prescribe, require such foreign bank to deposit the assets required to be held in this state pursuant to this section with such Alabama banks, as the superintendent may designate.

(e) The assets held to satisfy the assets to liabilities relationship, prescribed by the superintendent pursuant to this section, shall include obligations of any person for money borrowed from a foreign bank holding a license to establish and maintain an Alabama state branch or Alabama state agency only to the extent that the total of such obligations of any person are not more than 10 percent of such assets considered for purposes of this section.

Section 60. Voluntary Closure of Branch, Agency, or Representative Office - Application.

(a) No foreign bank which is licensed to establish and maintain an Alabama state branch, Alabama state agency, or Alabama representative office shall close such office without filing an

application with, and obtaining the prior approval of, the superintendent. An application by a foreign bank under this section shall be in such form and include such information as the superintendent shall establish by regulation or order.

(b) If the superintendent finds, with respect to an application by a foreign bank under this section, that the closing of such office will not be substantially detrimental to the public convenience and advantage, the superintendent shall approve such application. If the superintendent finds otherwise, he or she shall deny the application.

(c) Whenever an application by a foreign bank under this section has been approved and all conditions precedent to such closing have been fulfilled, such foreign bank may close such office and shall promptly thereafter surrender to the superintendent the license which authorized the foreign bank to maintain the office.

Section 61. Suspension or Revocation of License; Factors.

If, after notice and a hearing, the superintendent finds any of the following with respect to a foreign bank which is licensed to establish and maintain an Alabama state branch or Alabama state agency, he or she may issue an order suspending or revoking the license of such foreign bank:

(a) That the foreign bank has violated any provision of this article or of any regulation or order issued under this article or any provision of any other applicable law, regulation, or order;

(b) That the foreign bank is transacting activities in this state in an unsafe or unsound manner or, in any case, is transacting activities elsewhere in an unsafe or unsound manner;

(c) That the foreign bank or any one or more of its Alabama state branches or Alabama state agencies is in an unsafe or unsound condition;

(d) That the foreign bank has ceased to operate any of its offices in this state without the prior approval of the superintendent in accordance with this article;

(e) That the foreign bank is insolvent in that it has ceased to pay its debts in the ordinary course of business, it cannot pay its debts as they become due, or its liabilities exceed its assets;

(f) That the foreign bank has suspended payment of its obligations, has made an assignment for the benefit of its creditors, or has admitted in writing its inability to pay its debts as they become due;

(g) That the foreign bank has applied for an adjudication of bankruptcy, reorganization, arrangement, or other relief under any foreign or domestic bankruptcy, reorganization, insolvency, or moratorium law, or that any person has applied for any such relief under such law against the foreign bank and the foreign bank has by any affirmative act approved of or consented to such action or such relief has been granted;

(h) That a receiver, liquidator, or conservator has been appointed for the foreign bank or that any proceeding for such an appointment or any similar proceeding has been initiated in the country of the foreign bank's organization;

(i) That the existence of the foreign bank or the authority of the foreign bank to transact banking business under the laws of the country of the foreign bank's organization has been suspended or terminated; and

(j) That any fact or condition exists which, if it had existed at the time when the foreign bank applied for its license to transact business in this state, would have been grounds for denying such application.

Section 62. Immediate Suspension or Revocation.

If the superintendent finds that any of the factors set forth in Section 61 of this article are true with respect to any foreign bank which is licensed to maintain an Alabama state branch or Alabama state agency and that it is necessary for the protection of the interests of creditors of the foreign bank's business in this state or, in any case, for the protection of the public interest that the superintendent immediately suspend or revoke the license of the foreign bank, the superintendent may issue, without notice or hearing, an order suspending or revoking the license of the foreign bank for a period of up to 90 days, pending investigation or hearing.

Section 63. Seizure of Foreign Bank's Property and Business; Liquidation.

(a) If the superintendent finds that any of the factors set forth in Section 61 of this article are true with respect to any foreign bank which is licensed to establish and maintain an Alabama state branch or Alabama state agency and that it is necessary for the protection of the interests of the creditors of such foreign bank's business in this state or for the protection of the public interest that he or she take immediate possession of the property and business of the foreign bank, the superintendent may by order forthwith take possession of the property and business of the foreign bank in this state and retain possession until the foreign bank resumes business in this state or is finally liquidated. The

foreign bank may, with the consent of the superintendent, resume business in this state upon such conditions as the superintendent may prescribe by regulation or order.

(b) At any time within 10 days after the superintendent has taken possession of the property and business of a foreign bank pursuant to subsection (a) of this section, such foreign bank may apply to the circuit court of the county in which the primary office of the foreign bank is located in this state for an order requiring the superintendent to show cause why he or she should not be enjoined from continuing such possession. The court may, upon good cause being shown, direct the superintendent to refrain from further proceedings and to surrender such possession. The judgment of the court having jurisdiction over any proceedings under this subsection (b) may be appealed by the superintendent or by the foreign bank in the manner provided by law for appeals from a judgment of the circuit court. Where the superintendent appeals the judgment of the circuit court, such appeal shall operate as a stay of the judgment and a reinstatement of the superintendent's possession. The superintendent shall not be required to post any bond.

(c) Whenever the superintendent takes possession of the property and business of a foreign bank pursuant to subsection (a), he or she shall conserve or liquidate the property and business of such foreign bank pursuant to the laws of this state as if the foreign bank were an Alabama state bank, with absolute preference and priority given to the creditors of such foreign bank arising out of transactions with, and recorded on the books of, its Alabama state branch or Alabama state agency over the creditors of such foreign bank's offices located outside this state.

(d) When the superintendent has completed the liquidation of the property and business of a foreign bank, the superintendent shall transfer any remaining assets to such foreign bank in accordance with such orders as the court may issue. However, in case the foreign bank has an office in another state of the United States which is in liquidation and the assets of such office appear to be insufficient to pay in full the creditors of that office, the court shall order the superintendent to transfer to the liquidator of that office such amount of any such remaining assets as appears to be necessary to cover such insufficiency; if there are two or more such offices and the amount of remaining assets is less than the aggregate amount of insufficiencies with respect to the offices, the court shall order the superintendent to distribute the remaining assets among the liquidators of such offices in such manner as the court finds equitable.

SUBCHAPTER D - Alabama Branches of Out-of-State Foreign Banks

Section 64. Purpose.

This subchapter is intended generally to ensure that interstate state branches of out-of-state foreign banks may be established and operated in this state (i) to the extent consistent with the provisions of Section 5 of the federal International Banking Act and (ii) under terms and conditions that are generally comparable to and no less favorable than those applicable to the establishment of interstate federal branches in this state by out-of-state foreign banks.

Section 65. Establishment of Interstate Branches in this State by Out-of-State Foreign Banks.

(a) Except as provided in subsection (b) of this section, an out-of-state foreign bank may establish an interstate Alabama state branch in the same manner, including by merger or other transactions under Section 44 of the Federal Deposit Insurance Act, and comparable provisions of the laws of this state, with Alabama banks or other institutions, as, and subject generally to the same criteria, standards, conditions, requirements, and procedures applicable to the establishment of interstate branches in this state by, an out-of-state bank having the same home state in the United States, notwithstanding any provision of the laws or regulations of this state to the contrary.

(b) Notwithstanding the provisions of subsection (a), the superintendent:

(1) Shall apply to the establishment of an initial interstate Alabama state branch, and subsequent intrastate Alabama branches, of any out-of-state foreign bank the same criteria, standards, conditions, requirements, and procedures applicable under Subchapter C of this article or regulations thereunder to the establishment of an initial Alabama state branch, and of subsequent intrastate Alabama branches, respectively;

(2) May apply any other criterion, standard, condition, requirement, or provision of the laws or regulations of this state that is determined by the superintendent to be substantially equivalent to or consistent with a criterion, standard, condition, requirement, or provision of federal law or regulation generally applicable to the establishment of branches in the United States by foreign banks or specifically applicable to the establishment of a branch in the United States by the applicant foreign bank;

(3) May by regulation or order allow an out-of-state foreign bank:

(A) To acquire an individual branch of any "insured bank" within the meaning of Section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. § 1813(h)), or of any other depository institution, including another foreign bank, without acquiring the entire bank or other institution; or

(B) To acquire or merge with another foreign bank maintaining an Alabama branch or agency and thereafter continue such operations as its own; and

(C) To acquire or establish an interstate Alabama branch through any other means not inconsistent with Section 5 of the federal International Banking Act (12 U.S.C. § 3103).

Section 66. Section 5-1A-1, Code of Alabama 1975, is amended to read as follows:

"§5-1A-1.

"Chapters 1A through 13B and Chapter 20 of this title shall be known and may be cited as the "Alabama Banking Code."

Section 67. Section 5-1A-6, Code of Alabama 1975, is amended to read as follows:

"§5-1A-6.

"Insofar as the provisions of chapters 1A through 13B and Chapter 20 of this title are inconsistent with the provisions of any other law, general or special, the provisions of chapters 1A through 13B and Chapter 20 of this title shall be controlling."

Section 68. Section 5-2A-2, Code of Alabama 1975, is amended to read as follows:

"§5-2A-2.

"The state banking department shall locate and maintain its principal office in the city of Montgomery, Alabama, from which place it shall perform its duties and transact its business. Unless otherwise provided in chapters 1A through 13B and Chapter 20 of this title, all actions in which the superintendent, the banking department or its employees, the banking board or its members are named or joined shall be brought in the circuit court of Montgomery county."

Section 69. Section 5-2A-8, Code of Alabama 1975, is amended to read as follows:

"§5-2A-8.

"The superintendent may, with the concurrence of a majority of the members of the state banking board, promulgate such reasonable regulations, consistent with the laws of this state, as may be necessary to carry out the provisions of chapters 1A through 13B and Chapter 20 of this title over which the state banking department has jurisdiction. The superintendent shall, in addition, issue written interpretations of banking laws and regulations. Any bank and any officer or director thereof relying on any regulation or interpretation shall be fully protected even though the same shall be thereafter ruled invalid for any reason by a court of competent jurisdiction."

Section 70. Section 5-2A-23, Code of Alabama 1975, is amended to read as follows:

"§5-2A-23.

"The attorney general without additional compensation shall render to the state banking department such legal services as the superintendent may request. The district attorney in each county in this state, when requested by the superintendent, shall as a part of his or her official duty and without compensation, represent the superintendent in any civil action that the superintendent may desire to bring, or that may be brought against the superintendent under the provisions of chapters 1A through 13B and Chapter 20 of this title, in his or her respective circuit or county."

Section 71. Section 5-5A-18.1, Code of Alabama 1975, is amended to read as follows:

"§5-5A-18.1.

"Subject to the prior approval of the superintendent of banks of Alabama, state banks may make any loan or investment or exercise any power which they could make or exercise if incorporated or operating in this state as a federally chartered or regulated bank and shall be entitled to all rights, privileges, and protections granted or available to federally chartered or regulated banks under federal statutes and regulations. The provisions of this section shall take priority over, and be given effect over, any other general or specific provisions of the Alabama law relating to banking to the contrary. The superintendent shall consider the importance of maintaining a competitive dual banking system and whether such an order is in the public interest."

Section 72. Section 5-5A-20, Code of Alabama 1975, is amended to read as follows:

"§5-5A-20.

"(a) Alabama banks may establish a branch or office for the transaction of the banking business within the State of Alabama upon prior approval of the Superintendent of Banks. Alabama banks may establish a branch or office for the transaction of a banking business in any state other than Alabama, any territory of the United States, or in any foreign country in accordance with the provisions of federal law, the laws of the other state, territory, or foreign country and upon the prior approval of the Superintendent of Banks.

"(b) All laws or parts of laws, whether general, local or general laws of local applications, which conflict with this section are hereby repealed to the extent of such conflict."

Section 73. Section 5-6A-25, Code of Alabama 1975, is amended to read as follows:

"§5-6A-25.

"Any director, officer, or employee of a bank who knowingly, by newspaper advertisement or otherwise, represents its capital to be in excess of the actual capital accounts or knowingly concurs in making or publishing any materially false written report, exhibit, or statement of its financial condition, making any material statement which is false, or refuses or intentionally neglects to make any report or statement required by chapters 1A through 13B and Chapter 20 of this title is guilty of a felony."

Section 74. Chapter 13A and Section 5-7A-45, Code of Alabama 1975, are repealed.

Section 75. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 76. The provisions of Sections 1 through 11 and Sections 66 through 75 of this act shall become effective September 29, 1995, and the remainder of this act shall become effective May 31, 1997, after passage of this act and approval by the Governor, or upon its otherwise becoming a law.

Approved May 24, 1995

Time: 4:55 P.M.

Act No. 95-116 H. 410 – Rep. Morrow

AN ACT

Relating to Franklin County; authorizing the sheriff to retain funds accruing from the pay telephones and vending machines in the county jail in a special fund to be used by the sheriff for law enforcement purposes.

Be It Enacted by the Legislature of Alabama:

Section 1. The Sheriff of Franklin County, Alabama, may retain the funds accruing from the pay telephones and vending machines located in the county jail in a special fund known as the Law Enforcement Fund which shall be used by the sheriff for law enforcement purposes in the county. The fund shall be managed exclusively by the sheriff.

Section 2. The sheriff shall prepare an annual report detailing expenditures made during each fiscal year from the Law Enforcement Fund. A copy of the report shall be filed no later than 60 days after the close of each fiscal year with the county commission, the presiding judge of the circuit court of the county, and the county district attorney.

Section 3. This act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 24, 1995

Time: 4:56 P.M.

Act No. 95-117 H. 411 – Rep. Morrow

AN ACT

Relating to Franklin County; providing for an additional expense allowance and salary for the sheriff.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be operative in Franklin County.

Section 2. Commencing on the first day of the month immediately following the effective date of this act, the Sheriff of Franklin County shall be entitled to an additional expense allowance equal to the difference between the salary currently being paid to the sheriff and the salary of fifty-two thousand five hundred dollars ($52,500) annually currently being paid to the Circuit Clerk of Franklin County which shall be in addition to all other expense allowances, compensation, or salary provided by

law. This expense allowance shall be in addition to all other expense allowances, compensation, or salary provided by law. This expense allowance shall be payable in equal monthly installments from the general fund of the county.

Section 3. Beginning with the expiration of the term of the incumbent sheriff, the annual salary for the sheriff shall be increased by the difference between the salary of the sheriff and the salary of the circuit clerk, payable in equal monthly installments from the general fund of the county and at that time, Section 2 shall become null and void.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, except as otherwise herein provided.

Approved May 24, 1995

Time: 4:57 P.M.

Act No. 95-118 H. 221 – Rep. Letson

AN ACT

Relating to Lawrence County; providing for the levy of an additional recording fee upon documents filed for record with the Judge of Probate.

Be It Enacted by the Legislature of Alabama:

Section 1. Pursuant to the authority granted by Amendment 321 of the Constitution of Alabama of 1901 and Section 12-19-90(d), Code of Alabama 1975, in Lawrence County, a recording fee of four dollars ($4) shall be paid to the Judge of Probate and collected by the Judge of Probate, with respect to each instrument that may be filed for record in the office of said Judge of Probate. No such instrument shall be received for record in the office of the Judge of Probate unless said recording fee of four dollars ($4) is paid. Said recording fee shall be in addition to all other fees, taxes, and other charges required by law to be paid upon the filing for record of any instrument in the probate office. All recording fees so collected shall be deposited by the Judge of Probate to any bank in Lawrence County and spent by the Judge of Probate at his discretion for the purchase or lease of additional equipment and for the general operation of the office of the Judge of Probate.

Section 2. The fees collected under the provisions of this act shall be controlled by the sole discretion of the Judge of Probate and shall be audited by the Examiners of Public Accounts.

Section 3. The recording fee provided by this act shall expire five years after the effective date of this act and the provisions of this act shall be repealed at that time.

Section 4. All laws or parts of laws which conflict with this act are hereby repealed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 24, 1995

Time: 4:58 P.M.

Act No. 95-119 H. 222 – Rep. Letson

AN ACT

Relating to Lawrence County; providing for additional court costs in civil and criminal cases in the county with the proceeds to be used for planning, designing, construction, operation, furnishing, equipping, and financing of a county jail.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to any court costs and fees now or hereafter authorized in Lawrence County, the Lawrence County Commission may impose by resolution of the commission an additional fee in an amount not to exceed thirty-five dollars ($35) to be assessed and taxed as costs on each civil case and on each criminal case, including traffic cases, but excluding small claims cases, filed in the Circuit Court, District Court, or any Municipal Court in Lawrence County, as well as an additional fee not to exceed five dollars ($5) for the service of a pleading or other document in connection with any action or case. These fees shall not be waived by any court unless all other fees, assessments, costs, fines, and charges associated with the case are waived.

Section 2. The additional fees when collected by the clerks or their collection officers of the courts shall be paid into the General Fund of Lawrence County to be used by the Lawrence County Commission for the planning, designing, construction, financing, furnishing, equipping, and operation of a new county jail. The Lawrence County Commission may set and adjust by resolution the fees within the limits authorized by this act based on the needs associated with the new county jail.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 24, 1995

Time: 4:59 P.M.

Act No. 95-120

S. 89 – Senators Mitchem, Barron, Langford, Poole, Dial, Bedford, Windom, and Waggoner

AN ACT

To repeal Section 24-1A-9 of the Code of Alabama 1975, which provides that the Alabama Housing Finance Authority may not issue additional bonds after December 31, 1995.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 24-1A-9 of the Code of Alabama 1975, is repealed.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 24, 1995

Time: 5:00 P.M.

Act No. 95-121

S. 256 – Senator Lindsey

AN ACT

To repeal Sections 16-8-10 and 16-11-18, and 16-9-15, Code of Alabama, 1975, pertaining to written policies for teachers for city and county boards of education and to replace the statutes with this act so as to require written input by education support personnel as well as teachers when policies are adopted affecting such employees; to require the input by the employees to be in writing; to establish other regulations relating to written policies for public school personnel; to establish definitions; and to provide an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections Repealed. Sections 16-8-10, 16-11-18, and 16-9-15, Code of Alabama, 1975, as amended, pertaining to educational policies of county and city boards of education are hereby specifically repealed.

Section 2. Definitions. When used in this act, the following words shall have the following meanings:

(a) LOCAL BOARD OF EDUCATION or BOARD OF EDUCATION. Any city or county board of education; the Board of Trustees of the Alabama Institute for Deaf and Blind; the Alabama Youth Services Board in its capacity as the Board of Education for the Youth Services Department District; the Board of Directors of the Alabama School of Fine Arts; and the Board of Directors of the Alabama High School of Mathematics and Science.

(b) CHIEF EXECUTIVE OFFICER. The superintendent of any public county or public city school system; the President of the Alabama Institute for Deaf and Blind, the Superintendent of the Department of Youth Services District; the Executive Director of the Alabama School of Fine Arts; the Executive Director of the Alabama High School of Mathematics and Science.

(c) PROFESSIONAL ORGANIZATION. The employees' local professional organization whose parent organization represents the majority of school employees statewide.

Section 3. The local board of education shall, upon the written recommendation of the chief executive officer, determine and establish a written educational policy for the board of education and its employees and shall prescribe rules and regulations for the conduct and management of the schools. Before adopting the written policies, the board shall, directly or indirectly through the chief executive officer, consult with the applicable local employees' professional organization. Input by the applicable professional organization shall be made in writing to the chief executive officer. Representatives of the professional organization shall be made known to the chief executive officer in writing by the professional organization's duly elected officers or their representative. The chief executive officer of the board may also consult with professional assistants, principals, employees, and other interested citizens. The written policies, rules, and regulations, so established, adopted, or promulgated shall be made available to all persons affected and employed by the board. Any amendments to the policies, rules, and regulations shall be developed in the same manner and furnished to the affected persons employed by the board within 20 days after adoption.

Section 4. This act shall become effective with the commencement of the 1995-96 scholastic year.

Approved May 30, 1995

Time: 3:30 P.M.

Act No. 95-122 H.J.R. 147 – Rep. Box

HOUSE JOINT RESOLUTION

COMMENDING DIANNE DAVIS MCWAIN OF SARALAND, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, it is with highest commendation that the Legislature of Alabama notes the selection of Dianne Davis McWain of Saraland, Alabama as 1995 Alabama Elementary Counselor of the Year and 1995 National Elementary School Counselor of the Year; and

WHEREAS, Mrs. McWain, as guidance counselor at Robert E. Lee Elementary School, Grades K-5, since 1990, has demonstrated exemplary commitment to students, parents, teachers, the community, and to her profession; and

WHEREAS, in her care and concern for the well-being of her young students, she has endeavored to assist them in developing to their maximum potential, and to equip them with the skills to enable them to become well adjusted, contributing members of society; and

WHEREAS, to this end, she has implemented and coordinated a number of successful programs and projects, including Partners in Education, Honor Assemblies, "Terrific Kid," and the Extended Day Program, among others; and

WHEREAS, as a dedicated professional, Mrs. McWain has provided leadership and service in numerous areas in such capacities as committee member, coordinator, consultant, advisor, and representative on local, state and national levels, and has received a number of accolades and awards for her contributions and accomplishments; and

WHEREAS, in her position as president of the Alabama School Counselors Association, Mrs. McWain has worked diligently to keep members abreast of new information, techniques and trends; to provide programs and opportunities for members so that they may better serve their clients; and to increase professionalism in the association; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement and service, and upon her selection as 1995 Alabama Elementary Counselor of the Year, and 1995 National Elementary School Counselor of the Year, we hereby most highly commend Dianne Davis McWain of Saraland,

Alabama, and direct that she receive a copy of this resolution as a measure of our tribute and esteem.

Approved June 2, 1995

Time: 3:30 P.M.

Act No. 95-123 H.J.R. 149 – Reps. Hill, Knight (A)

HOUSE JOINT RESOLUTION

COMMENDING DR. NORMA ROGERS FOR 35 YEARS OF OUTSTANDING SERVICE.

WHEREAS, it is with great pleasure and pride that the Alabama Legislature recognizes Dr. Norma Rogers, who is departing as Superintendent of Education of Shelby County after many years of distinguished service to the educational system of Alabama; and

WHEREAS, Dr. Rogers has a prestigious and extensive career as an educator serving as a teacher at Chelsea School, a teacher, counselor, then principal of Valley Elementary School, a consultant of the State Department of Education Leadership and Management Improvement Program—Public Relations/Stress Management, and an evaluator for the National Diffusion Network, U.S. Department of Education Washington, D.C.; and

WHEREAS, Dr. Rogers received a Bachelor's degree from the University of Montevallo, a Master's degree from Samford University, an Associate degree from the University of Alabama at Birmingham, a Ph. D from the University of Alabama, and has additionally pursued post graduate work at other notable universities; and

WHEREAS, a native of Chelsea, Alabama, residing in the Indian Springs area of Shelby County, Alabama, Dr. Norma Rogers is the devoted wife of Dr. Robert Rogers, and they are the proud parents of one son, Mike; and

WHEREAS, Dr. Norma Rogers is well deserving of this sincere praise due to her invaluable contributions and unwavering commitment to the countless students she has touched and inspired; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA BOTH HOUSES THEREOF CONCURRING, That we hereby accord highest commendation to Dr. Norma Rogers, the Superintendent of Education of Shelby County, in tribute to her tremendous service to the education system of Alabama, and we do

furthermore direct that a copy of this resolution be presented as evidence of our appreciation and esteem.

Approved June 2, 1995

Time: 3:31 P.M.

Act No. 95-124 H.J.R. 150 – Rep. Box

HOUSE JOINT RESOLUTION

COMMENDING THE MCGILL-TOOLEN GIRLS GOLF TEAM FOR OUTSTANDING ACCOMPLISHMENT.

WHEREAS, it is with great pride and pleasure that the Alabama Legislature honors Mobile's McGill-Toolen Girls Golf Team for winning the 1995 State Championship; and

WHEREAS, the extraordinary Lady Jackets, whose record this year was 44 wins and 0 losses, soundly defeated other opponents by an astounding 60 strokes to win the state title for the second consecutive year, and for five out of the past six years; and

WHEREAS, undefeated in Alabama for the second year in a row, the McGill-Toolen Girls Golf Team has also been victorious in the Miracle Strip Golf Classic by 31 strokes, the Fort Payne Invitational by 38 strokes, and has won each match by an average of an astounding 34 strokes; and

WHEREAS, these girls, who are expertly directed by Coach Tom Buhring, and who deserve special recognition for their tremendous accomplishments and performance as a McGill-Toolen Lady Jacket are: seniors Leslie Brislin and Amanda Mize, who received all-county honors, and juniors Leigh Ankerson and Tricia Burch, who received all-county and all-state honors; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF THE LEGISLATURE OF ALABAMA BOTH HOUSES THERE CONCURRING, That we hereby extend highest commendation and warmest congratulations to the McGill-Toolen Girls Golf Team, the 1995 state champions, and furthermore direct that copies of this resolution be provided as evidence of our pride and esteem.

Approved June 2, 1995

Time: 3:32 P.M.

Act No. 95-125 H.J.R. 152 – Rep. Flowers

HOUSE JOINT RESOLUTION

COMMENDING THE HONORABLE M. JOHN STEENSLAND, JR., OF DOTHAN, ALABAMA.

WHEREAS, it is with sincere admiration and esteem that the Alabama Legislature extends highest commendation and heartiest congratulations to the Honorable M. John Steensland, Jr., Houston County District Court Judge, for his able and concerted efforts in the administration of justice and to protect the public against drunk drivers; and

WHEREAS, Judge Steensland was born and raised in Dothan, Houston County, Alabama, and is the great grandson of one of Dothan's pioneer founding families, J. P. Folkes and his wife, Mary Frances Folkes; and

WHEREAS, Judge Steensland was educated in the public schools in Dothan, graduated from Dothan High School, attended Marion Military Institute, and received his B. S. degree in civil engineering from the University of Alabama and a Juris Doctor degree from Jones School of Law in Montgomery; and

WHEREAS, Judge Steensland assumed the position of Houston County District Court Judge in January 1989, and, in the years to follow, has most ably and competently served the people of Alabama; and

WHEREAS, Judge Steensland has been commended by the Administrative Office of Courts for his innovative alternative sentencing techniques such as helping initiate a community service program requiring misdemeanor offenders to participate in an organized effort to pick up litter on our county roads known as the "litter detail," and the sentencing of misdemeanor offenders, who have not graduated from high school, to complete a course of study leading to their taking the General Education Development (GED) test; and

WHEREAS Judge Steensland's effective and firm sentencing practices exhibit a disdain of past attitudes toward, and lack of deterrence to, intoxicated people driving on our roads, and shows his intolerance of the conduct of DUI offenders by his norm in sentencing convicted DUI offenders to twelve months custody for any conviction of DUI, with this twelve month custody being served in jail, on a work release program, or on an electronic monitoring program, along with extensive mandatory substance abuse treatment; and

WHEREAS, Judge Steensland is an active member in his community, serving on the board of directors of the Boys' Club of Dothan, Inc., as chairman of the Houston County Pretrial Release/Work Release Commission, as a member of the Dothan Rotary Club, Alabama District Court Judge's Association, Houston County Adult Education Advisory Counsel, and as a senior high school Sunday School teacher at the Episcopal Church of Nativity, Dothan, Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby commend Judge M. John Steensland, Jr., for outstanding achievement, leadership and service as Houston County District Court Judge, and direct that he receive a copy of this resolution of highest personal and professional regard for his many accomplishments on behalf of the people of Houston County, the State of Alabama, and the nation.

Approved June 2, 1995

Time: 3:33 P.M.

Act No. 95-126 H.J.R. 155 – Reps. Kennedy, Gaston, Clark (W), Box, Mitchell, Crigler, Turner, Dean, Buskey, Pringle

HOUSE JOINT RESOLUTION

COMMENDING ANN DELCHAMPS OF MOBILE, ALABAMA, FOR OUTSTANDING COMMUNITY SERVICE.

WHEREAS, the Alabama House of Representatives, in highest tribute, notes the distinguished community service of Ann Delchamps of Mobile, Alabama, and her selection as Mobilian of the Year by the Mobile Civitan Club; and

WHEREAS, Ann Delchamps is a lady of exceptional stature whose generous and extensive contributions to the arts and the cultural life of the Mobile community and across our state have been immeasurable; and

WHEREAS, a longtime supporter of the arts, Mrs. Delchamps has been actively involved with the Historic Mobile Preservation Society, serves as a member of the board of the Mobile Arts Council and as vice chairman of the state arts council, and is a founder of "First Night Mobile," a popular and successful program featuring all disciplines of the arts; and

WHEREAS, a native of Sulligent, Alabama, Mrs. Delchamps and her husband the late Fred Delchamps, also a prominent figure in civic and business affairs, are the parents of three children, Carolyn Eichold, and Tom and Al Delchamps; and

WHEREAS, Ann Delchamps personifies the very best in civic leadership and service and indeed serves as a worthy example to be emulated by others who strive for the best in personal, public and community life; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Mrs. Ann Delchamps of Mobile, Alabama, as "Mobilian of the Year", and for the many significant contributions she has made to the Mobile community and to the state.

BE IT FURTHER RESOLVED, That she be provided a copy of this resolution as a measure of our tribute and esteem and sincere best wishes for every future success.

Approved June 2, 1995

Time 3:34 P.M.

Act No. 95-127 H.J.R. 157 – Rep. Houston

HOUSE JOINT RESOLUTION

WELCOMING THE NEIGHBORHOODS, U.S.A. ANNUAL CONFERENCE TO BIRMINGHAM, ALABAMA.

WHEREAS, it is with great pride and pleasure that the Alabama Legislature warmly welcomes the 20th Annual Neighborhoods. U.S.A. (NUSA) Conference Celebration to Birmingham, Alabama, on May 24-27; and

WHEREAS, NUSA, which is a national non-profit organization committed to building and strengthening neighborhood organizations by enhancing the relationships between neighborhoods, local governments, and public/private agencies, will focus this year's conference on the theme, "Reaching Common Ground Through Strong Neighborhoods," in an effort to promote the tremendous benefits unified neighborhoods can accomplish; and

WHEREAS, addressing common vital issues, concerns, and success stories of cities and neighborhoods across the country, the NUSA Conference will feature interesting and informative workshops, historically diverse neighborhood tours throughout Birmingham, a reception with Mayor Richard Arrington and other officials of Birmingham, an awards luncheon, and a Birmingham Farewell Gala; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA BOTH HOUSES THEREOF CONCURRING, That we hereby welcome the 20th Annual Neighborhoods, U.S.A. Conference to Birmingham, Alabama, on May 24-27, 1995, and furthermore direct that a copy of this resolution be provided as evidence of our appreciation and esteem.

Approved June 2, 1995

Time: 3:35 P.M.

Act No. 95-128 H.J.R. 158 – Rep. Black (L)

HOUSE JOINT RESOLUTION

COMMENDING MRS. RUBY MILLER ON THE OCCASION OF HER RETIREMENT.

WHEREAS, it is with great pleasure and utmost pride that the Alabama Legislature accords warmest congratulations and paramount praise to Mrs. Ruby Miller on the occasion of her retirement from 18 years as a teacher at North Sumter Jr. High School; and

WHEREAS, a graduate of Mississippi Valley State and Alabama State Universities, Mrs. Miller is an active participant in such notable organizations as the Sumter County Education Association, Alabama Education Association, National Education Association, and Zeta Phi Beta Sorority; and

WHEREAS, Ruby is a devoted member of First Baptist Church of Aliceville, and is the dedicated wife of Vernon Miller; they are the proud parents of one daughter and one son; and

WHEREAS, Mrs. Miller deserves special recognition in honor of her invaluable contributions to the countless students she has inspired and encouraged throughout her distinguished career; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation to Mrs. Ruby Miller on the occasion of her retirement from 18 years of service as a teacher at North Sumter Jr. High School, and do furthermore direct that a copy of this resolution be provided as evidence of our appreciation and esteem.

Approved June 2, 1995

Time: 3:36 P.M.

Act No. 95-129 H.J.R. 159 – Rep. Black (L)

HOUSE JOINT RESOLUTION

COMMENDING MRS. VIRGINIA OZMENT ON THE OCCASION OF HER RETIREMENT.

WHEREAS, it is with great pride and pleasure that the Alabama Legislature recognizes Mrs. Virginia Ozment on the occasion of her retirement from 29 years of service as a teacher in the school systems; and

WHEREAS, a graduate of Livingston University, and member of the Livingston Business Women Association, Mrs. Ozment has made immeasurable contributions through her distinguished career as a teacher of Sumterville and Livingston Jr. High Schools; and

WHEREAS, a dedicated member of Sumterville Baptist Church, Virginia is the loving wife of Edward Ozment, and they are the proud parents of five children, Sam, Bruce, Lynda, Nancy, and Annette, and grandparents of nine; and

WHEREAS, Mrs. Ozment has earned the respect and admiration of her colleagues, students, and their parents, and is indeed well deserving of this special recognition; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and warmest congratulations to Mrs. Virginia Ozment on the occasion of her retirement, and in honor of 29 years of service to our youth.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided for Mrs. Ozment as evidence of our appreciation and esteem.

Approved June 2, 1995

Time: 3:37 P.M.

Act No. 95-130 H.J.R. 160 – Rep. Black (L)

HOUSE JOINT RESOLUTION

COMMENDING MR. ROBERT SMITH ON THE OCCASION OF HIS RETIREMENT.

WHEREAS, it is with great pride and pleasure that the Alabama Legislature extends highest commendation and warmest

congratulations to Mr. Robert Smith, who is retiring after 27 years of service to the Sumter County School System; and

WHEREAS, the principal of Kinterbish Jr. High School for eight years, Robert Smith has made invaluable contributions to the students of Sumter County in numerous areas, serving in the capacities of bus driver, night watchman, teacher, assistant principal, and most recently principal; and

WHEREAS, an active member of the Sumter County Education Association, National Education Association, Alabama Education Association, and the Sumter County Principal Association, Mr. Smith has furthermore served as a teacher at North Sumter Jr. High School, Sumter High School, and Kinterbish Jr. High School, and as assistant principal of Kinterbish and Livingston High Schools; and

WHEREAS, a graduate of Livingston University, and a devoted member of Lilly's Chapel A.M.E. Zion Church, Mr. Smith is well deserving of this special recognition for his distinguished service to those countless young people he has inspired, encouraged, and touched throughout the years; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby accord highest acclaim and paramount praise to Mr. Robert Smith on the occasion of his retirement from 27 years of service to the Sumter County School System, and do furthermore direct that a copy of this resolution be provided as evidence of our appreciation and esteem.

Approved June 2, 1995

Time: 3:38 P.M.

Act No. 95-131 H.J.R. 161- Rep. Black (L)

HOUSE JOINT RESOLUTION

COMMENDING MRS. LAURA ELIZABETH LOWERY LITTLE FOR DISTINGUISHED SERVICE.

WHEREAS, it is with highest commendation that the Legislature of Alabama notes the retirement of Mrs. Laura Elizabeth Lowery Little, following 40 1/2 years of dedicated service to public education in our state; and

WHEREAS, Mrs. Little is a truly committed professional who, through the years, has significantly impacted the lives of countless young people under her tutelage and care; and

WHEREAS, Mrs. Little earned both B. S. and Masters degrees from Alabama A&M, and pursued further studies at the University of Alabama and Livingston University; and

WHEREAS, over the course of her longtime tenure, Mrs. Little taught at Marengo High School and Faunsdale Jr. High School in Marengo County, Sardis High School in Dallas County, and, since 1972, in devoted service at York West End Jr. High School in York, Alabama; and

WHEREAS, Mrs. Little has also served her profession as a member of a number of professional organizations and as president of SCEA for two terms, president of Sumter County Association of Classroom Teachers for one term, and as secretary of Unisere for three terms; and

WHEREAS, in addition, she has ably served her community, and, most especially Little Zion Baptist Church, Faunsdale, where she has served in such capacities as Sunday School teacher, Youth Choir director, Youth Department director, Senior Choir member, and as the first woman dean of Union Town District Sunday School and the Baptist Training Union Congress: and

WHEREAS, Mrs. Little, moreover, is a devoted wife to her husband, The Reverend Samuel Little, and mother of one daughter, Hermania Laurie Little; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That upon the occasion of her retirement, and in recognition and tribute to her outstanding career as a public school educator for more than 40 years, we hereby commend Mrs. Laura Elizabeth Lowery Little of Sumter County, and direct that she receive a copy of this resolution of sincere regard and best wishes for the future.

Approved June 2, 1995

Time: 3:39 P.M.

Act No. 95-132 H.J.R. 162 – Rep. Box

HOUSE JOINT RESOLUTION

COMMENDING BECKY DICKINSON OF MOBILE, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, on September 17, 1994, Becky Dickinson reached yet another milestone achievement in her accomplished career as head volleyball coach at McGill-Toolen High School since 1974; and

WHEREAS, with a spectacular 15-5, 15-4 win over Homewood High School during the McGill-Toolen Invitational Volleyball Tournament, Becky Dickinson claimed her 1000th career victory with only 90 losses; and

WHEREAS, in fact, Ms. Dickinson, who was recognized as the winningest volleyball coach in the nation by Sports Illustrated in 1993, and who holds 11 State Championships, has chronicled a number of prestigious honors over her distinguished tenure at McGill-Toolen; in 1986, she was one of only two women to be inducted into the McGill-Toolen Athletic Hall of Fame; in 1991, the first woman to be inducted into the Alabama High School Sports Hall of Fame; and in 1994, the only woman to be inducted into the Mobile Sports Hall of Fame; and

WHEREAS, Ms. Dickinson, who has also been named as the national all-time winningest high school coach in the National High School Sports Record Book, holds to date a record 1,041 wins with only 96 losses; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, we hereby most highly commend Becky Dickinson of Mobile, Alabama, for whom a copy of this resolution shall be provided with sincere regard and best wishes for every future success.

Approved June 2, 1995

Time: 3:40 P.M.

Act No. 95-133 H.J.R. 163 – Rep. Box

HOUSE JOINT RESOLUTION

CONGRATULATING MR. AND MRS. ROBERT GORDON LISTER ON THE OCCASION OF THEIR 60TH WEDDING ANNIVERSARY.

WHEREAS, it is with sincere praise and regard that the Alabama Legislature notes the 60th Wedding Anniversary of Mr. and Mrs. Robert Gordon Lister of Satsuma, Alabama, on April 14, 1995; and

WHEREAS, Mr. Lister, born August 17, 1913, in Mobile, Alabama, attended Barton Academy, and worked for 30 years as a diesel mechanic with Warrior and Gulf Navigation Corporation until his retirement in 1975; and

WHEREAS, Mrs. Lister, the former Grey Corley, who was born March 25, 1916, in Marengo County, earned a degree from the University of South Alabama, and taught for 35 years in the Mobile County School System, until her retirement in 1980; and

WHEREAS, joined in matrimony on April 14, 1935, in Columbus, Mississippi, Mr. and Mrs. Lister are respected and valued members of their community whose lasting partnership and commitment to the ideals of marriage have served as an example to be admired and emulated by others; and

WHEREAS, on April 15, 1995, friends and family members, including the couple's three sons and their spouses, Robert and Sandra Lister of Mobile, Alabama, Daniel and Helen Lister of Shelby, North Carolina, and Wayne and Marty Lister of Semmes, Alabama, along with many of their 14 grandchildren and 9 great-grandchildren, gathered for a reception in their honor and to celebrate this milestone in their long and happy lives together; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in highest commendation, heartiest congratulations are hereby extended to this exemplary Mobile County couple, Mr. and Mrs. Robert Gordon Lister, on their 60th Wedding Anniversary, April 14, 1995, and it is further directed that they receive a copy of this resolution, executed in highest personal regard, and with sincere best wishes for many more happy years together.

Approved June 2, 1995

Time: 3:41 P.M.

Act No. 95-134 H.J.R. 165 – Rep. Pringle

HOUSE JOINT RESOLUTION

URGING THE RETURN OF THE CSS HUNLEY TO THE CITY OF MOBILE, ALABAMA.

WHEREAS, the Legislature of Alabama notes the significant historical discovery of the legendary Confederate States Submarine Hunley, off the coast of Sullivans Island near Charleston, South Carolina, on May 3, 1995; and

WHEREAS, the discovery of the CSS Hunley, whose 25-foot hull was adapted from an iron boiler, has been described as the greatest underwater find since the renowned Union gunboat USS Monitor was located; and

WHEREAS, the CSS Hunley, on the night of February 17, 1864, sailed out of Charleston Harbor, rammed a torpedo packed with 100 pounds of black powder into the stern of the USS Housatonic, after which the brave crew by means of hand cranks pulled away from the Union frigate and detonated the explosives with a rope; thus the Hunley became the first successfully operated submarine and the first submarine to sink another vessel during a war; however, the success of the mission was short-lived; the vessel never returned to port, the cause of its sinking still a mystery; and

WHEREAS, the State of Alabama and the City of Mobile may justifiably maintain a significant connection with this naval icon; the craft was constructed near the intersection of Canal and Water Streets in Mobile by Park and Lyons Company, and we note that while this machine shop was dismantled some years ago, its building materials were salvaged and placed in storage by the city with each brick numbered for eventual reconstruction; and

WHEREAS, the City of Mobile was the home port for the CSS Hunley, the majority of the crew on the night of its historic mission were Mobilians, and the vessel was shipped via rail from its point of origin to Charleston, all documented facts which provide strong arguments for the return of the submarine to its hometown; and

WHEREAS, the City Museum of Mobile currently has a life-size replica of the Hunley and a detailed display and drawings of the interior of the vessel, testaments of the paramount historical appreciation the city possesses in this revolutionary invention; and with the anticipated relocation of this nationally respected museum to the Old City Hall, a National Landmark, the Hunley may be displayed and housed in the most appropriate and historically correct site; and

WHEREAS, press reports concerning the proprietary rights of the vessel are conflicting, but irrespective of who possesses the rights to the submarine, the Hunley belongs to all the citizens of this nation and it should be placed in the most historically proper and accurate location, which is the port and city of its conception and construction; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we strongly encourage all interested parties involved in the salvaging of the vessel, including the United States Government, the State of South Carolina, the University of South Carolina, and Mr. Clive Cussler, to earnestly consider returning this magnificent historical treasure to its home, the grand and beautiful City of Mobile, Alabama.

BE IT FURTHER RESOLVED, That copies of this resolution be forwarded to those interested parties enumerated herein and to the City of Mobile so that they may be informed of our sentiments.

Approved June 2, 1995

Time: 3:42 P.M.

Act No. 95-135 H.J.R. 166 – Rep. Gaston

HOUSE JOINT RESOLUTION

COMMENDING STEVE KITTRELL FOR HIS 500TH WIN AS A COLLEGE BASEBALL COACH.

WHEREAS, it is with great pride and pleasure that the Legislature of Alabama honors the Head Coach of the University of South Alabama Baseball Team, Steve Kittrell, for his 500th win as a college baseball coach; and

WHEREAS, in his 12 seasons with the Jaguars, Steve Kittrell has lead his team to seven NCAA Tournaments, seven Sunbelt Titles, a number 11 national ranking, and the inaugural season team was one game away from the College World Series; and

WHEREAS, a native of Mobile, Alabama, Steve Kittrell attended the University of South Alabama where he played baseball under his coach and mentor, Eddie Stanky, who was instrumental in signing Steve with the Boston Red Sox; and

WHEREAS, after serving as a graduate assistant to Eddie Stanky in 1973, Steve Kittrell pursued his dream, coaching at Niceville High School, UMS Preparatory School, Enterprise State Alabama Junior College, and Spring Hill College, where he earned widespread regard for his coaching abilities; and

WHEREAS, Steve Kittrell was named District 30, Gulf Coast Athletic Conference; Area Two Tournament Coach of the Year; and 1992 Sun Belt Coach of the Year in recognition of his outstanding performance and leadership of the University of South Alabama Jaguars; and

WHEREAS, Steve Kittrell and his devoted wife, Carol, who is the University of South Alabama Associate Director of Alumni Affairs, are the proud parents of two children, Scott and Stacey; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of his 500th win as a college baseball coach, we hereby accord

highest commendation to Steve Kittrell, Head Coach of the University of South Alabama Jaguars, and furthermore direct that a copy of this resolution be presented as evidence of our pride and esteem.

Approved June 2, 1995

Time: 3:43 P.M.

Act No. 95-136 H.J.R. 167 – Rep. Gaston

HOUSE JOINT RESOLUTION

COMMENDING BRIAN GILLIS CAMPBELL OF MOBILE, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, in a desire to recognize young Alabamians of outstanding achievement, the Legislature of Alabama notes the many outstanding accomplishments of Brian Gillis Campbell, a senior at W. P. Davidson High School in Mobile; and

WHEREAS, lauded by his teachers, admired and respected by his peers, Brian Gillis Campbell is indeed an exceptional young man of extraordinary talent and ability; and

WHEREAS, a 1995 National Merit Scholar, a Coca Cola Scholars semifinalist, and recipient of the Freedom Foundation George Washington Medal, young Brian Gillis has also been selected as a member of the Scott Hi-Q Team, Scholars' Bowl Team, and Duke University Talent Identification Program for the past three years, and as President of the National Honor Society, 1994-95, to name a few; and

WHEREAS, he has further provided leadership as Class President for the past four years, Key Club President (1994-95), Band Council President (1994-95), member of the PTSA board, Hugh O'Brian Youth Foundation (1992), and is a recipient of the Kodak Young Leader's Award (1993); and

WHEREAS, in an extension of accomplishments, he has been a member of the All-State Band, All-State Orchestra, All-South Orchestra, Mobile Student Symphony, Mobile Youth Wind Ensemble, the Brass Ensemble of Government Street Presbyterian Church, and has been a member of the varsity soccer team for 4 years; and

WHEREAS, in community involvement, he has served as a member of the Presbytery of South Alabama Youth Council, and is a recipient of the Eagle Scout Award and Order of the Arrow, among other activities and honors of service; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That it is with great pride and pleasure that we hereby most highly commend Brian Gillis Campbell of Mobile, Alabama, a young man in whom we are justly proud, and for whom a copy of this resolution of highest regard shall be provided.

Approved June 2, 1995

Time: 3:44 P.M.

Act No. 95-137 H.J.R. 174 – Rep. Hammett

HOUSE JOINT RESOLUTION

RELATIVE TO MEETING DAYS.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That when the two Houses of the Legislature adjourn today, Thursday, May 25, 1995, they adjourn to meet again on Tuesday, May 30, 1995, and when they adjourn on Tuesday, May 30, 1995, they adjourn to meet again on Thursday, June 1, 1995.

Approved June 2, 1995

Time: 3:45 P.M.

Act No. 95-138 S.J.R. 73 – Senator Bailey

SENATE JOINT RESOLUTION

COMMENDING MICHAEL C. PATTON ON THE OCCASION OF HIS RETIREMENT.

WHEREAS, it is with great pride and pleasure that the Alabama Legislature recognizes Michael C. Patton on the occasion of his retirement, June 31, 1995, following 40 years of dedicated service to the Dothan City School System; and

WHEREAS, Michael Patton has served with honor and distinction as a teacher in the Dothan City Schools for 10 years, and for the past 30 years as the principal of Montana Street Elementary School, earning admiration and regard from all his associates, students, and their parents; he was furthermore the first graduate of Carver High School who later returned there to teach; and

WHEREAS, Mr. Patton has made immeasurable contributions to numerous community and civic organizations serving as

president of the Advisory Board of the Salvation Army, past president of the Bi-Racial Study Group, chairman of the Dothan Planning Commission, past president of Hawk-Houston Boys Club, and many others; and

WHEREAS, Mr. Patton is an active participant in numerous notable organizations such as the National Education Association, Alabama Education Association, Kappa Alpha Psi Fraternity, Inc., and the Alabama and National Association of Principals, to name but a few; and

WHEREAS, a dedicated lifetime member of First Missionary Baptist Church, Michael is the devoted husband for 37 years of Stella M. Patton, and they are the proud parents of three sons, Craig, Carlton, and Carmichael; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and warmest congratulations to Michael C. Patton, on the occasion of his retirement following 40 years of service to the Dothan City School System on June 31, 1995, and do furthermore direct that copies of this resolution be provided as evidence of our sincerest appreciation and esteem.

Approved June 2, 1995

Time: 3:50 P.M.

Act No. 95-139 S.J.R. 66 – Senator Dixon

SENATE JOINT RESOLUTION

COMMENDING THE MONTGOMERY ACADEMY FORENSICS TEAM FOR OUTSTANDING ORATORY.

WHEREAS, it is with great pride and pleasure that the Alabama Legislature recognizes the Montgomery Academy Forensics Team as the 1995 State Champions; and

WHEREAS, since its inception in 1991, the members of the Montgomery Academy Forensics Team have worked tirelessly; traveling, researching, and competing, and on April 7-8, attended the state tournament at Mountain Brook High School where their eloquent efforts earned this sweet victory; and

WHEREAS, under the leadership of Coach James W. Rye, III, and his able assistants, David B. Ball and Troy Fisher, the Montgomery Academy Forensics Team practiced daily those crucial elements of forensic competition, including mock debate, dramatic interpretations, humorous interpretations, and after dinner

speeches; and the Academy team, which placed fourth in the state finals in the past three years, converted this dedication into a state championship title by defeating the reigning champion and the holder of 7 of the last 8 state titles; and

WHEREAS, in honor of this exceptional endeavor of elocution, the Forensics Team was honored at a celebration banquet on May 2, 1995, during which Mayor Emory Folmar presented a proclamation and gave the team a key to the city; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA BOTH HOUSES THEREOF CONCURRING, That we hereby extend paramount praise and warmest congratulations to the Montgomery Academy Forensics Team, the 1995 State Champions, and do furthermore direct that a copy of this resolution be presented to Coach James W. Rye, III, for appropriate display at Montgomery Academy.

Approved June 2, 1995

Time: 3:51 P.M.

Act No. 95-140 S.J.R. 70 – Senator Langford

SENATE JOINT RESOLUTION

HONORING THE MONTGOMERY HOUSING AUTHORITY YELLOW JACKETS BASKETBALL TEAM FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, it is with utmost pride and pleasure that the Alabama Legislature honors the Montgomery Housing Authority Basketball Team for tremendous accomplishment throughout the season; and

WHEREAS, the Yellow Jackets prevailed victorious even after losing one hard-fought game in triple overtime in the semi-finals, winning the Alabama Public Housing Basketball Tournament for the third straight year, and ending the season with a spectacular three-year record of 79 wins and one loss; and

WHEREAS, the MHA Yellow Jackets furthermore won a Round Robin Tournament against the top two teams of Kentucky, and again took two games from them in the return challenge on May 20, 1995, at Lanier High School Gymnasium; and

WHEREAS, the leaders of the Yellow Jackets are Coaches James Hall and Sampson Cotton, and Assistant Coaches Terrance Curry and Douglas Hall, and the team members are: Leon Crawford, Rodriqious Davis, Alonzo Hill, DeWayne Howard, Takeo

Jackson, Manuel Nelson, Carlos Jenkins, Terrance Pettiway, Evans Robinson, Jimmy Sankey, Quinton Wilkins, and Lee Wood; and

WHEREAS, on May 18, 1995, all these men were honored at the State and National Champions HUD's Youth Sports Award Ceremony given by the MHA in tribute to their hard work, dedication, discipline, and integrity; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and warmest congratulations to the Montgomery Housing Authority Yellow Jackets Basketball Team for outstanding achievements, and do furthermore direct that copies of this resolution be provided as evidence of our pride and esteem.

Approved June 7, 1995

Time: 3:52 P.M.

Act No. 95-141 S.J.R. 71 – Senators Little, Adams, Amari, Armistead, Bailey, Barron, Bedford, Biddle, Butler, Clay, Davidson, Denton, Dial, Dixon, Escott-Russell, Figures, Freeman, Ghee, Hale, Hill, Langford, Lindsey, Lipscomb, McClain, Mitchell, Mitchem, Myers, Poole, Roberts, Sanders, Smith, Smitherman, Steele, and Windom

SENATE JOINT RESOLUTION

HONORING JAY WAGGONER OF BIRMINGHAM, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, it is with great pride and pleasure that the Alabama Legislature recognizes Jay Waggoner of Birmingham, Alabama, as the recipient of the Cliff Hare Award which honors that Auburn University athlete who, in addition to athletic and scholastic achievement, exhibits in great degree the qualities of leadership, integrity, and courage; and

WHEREAS, Jay Waggoner, who is in his 4th season as an Auburn University baseball player, is indeed well deserving of the prestigious honor which is the highest award an Auburn athlete can receive; and

WHEREAS, named as pre-season All-America by Mizunol Collegiate Baseball, and first team Smith Super Team by the

National Collegiate Baseball Writer's Association, Jay Waggoner ended the 1994 season by setting a new SEC record of 119 hits, and a single-season school record for at bats; earned first team all SEC after finishing third in the league with a .409 batting average; and furthermore entered his senior season third on Auburn's career hit list, among other accomplishments too numerous to mention; and

WHEREAS, a civil engineer major, Jay Waggoner has been a member of the SEC Academic Honor Roll and tied an NCAA record with three hits in one inning; and

WHEREAS, a native of Birmingham, Alabama, and graduate of Vestavia Hills High School, Jay is the devoted son of our dear friend and colleague The Honorable J. T. Waggoner and his wife, Marilyn; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and warmest congratulations to Auburn's Jay Waggoner, the recipient of the prestigious Cliff Hare Award, in honor of his outstanding accomplishments both on and off the baseball field.

BE IT FURTHER RESOLVED, That a copy of this resolution of sincere praise be presented to Jay as evidence of our pride and esteem.

Approved June 2, 1995

Time: 3:53 P.M.

Act No. 95-142 S.J.R. 72 – Senators Davidson, Biddle, Waggoner, Amari, Armistead, Smitherman, McClain, Adams, Bailey, Barron, Bedford, Butler, Clay, Denton, Dial, Dixon, Escott-Russell, Figures, Freeman, Ghee, Hale, Hill, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Myers, Poole, Roberts, Sanders, Smith, Steele, and Windom

SENATE JOINT RESOLUTION

RENAMING I-459 IN JEFFERSON COUNTY THE JOHN M. HARBERT FREEWAY.

WHEREAS, the death of John Murdoch Harbert, III, on March 31, 1995, at the age of 73 years, has indeed left an unfathomable

void in the life of the Birmingham community, but his stature and reputation as a man, his accomplishments as a businessman of legendary proportions, and his magnanimous and benevolent contributions to the Birmingham community and to his fellowman remain as a lasting legacy to the visionary entrepreneur who founded the Birmingham-based Harbert Corporation, one of the nation's largest and world renowned private construction companies; and

WHEREAS, Mr. Harbert was instrumental in the construction of many of the buildings which grace and embellish the landscape and skyline of Birmingham today, including the AmSouth Harbert Plaza, the SouthTrust Bank Tower, Riverchase Galleria and, of course, the Harbert Center; and

WHEREAS, he also gave generously in leadership and philanthropic support of numerous civic and charitable organizations and endeavors, including the Alabama School of Fine Arts, the Boy Scouts of America, the Eye Foundation Hospital, AmSouth Bank, Auburn University, and the University of Alabama at Birmingham, to name but a few; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That as a lasting tribute and memorial to his immeasurable contributions toward the betterment and well-being of the Birmingham community, we hereby direct that I-459, encircling the city of Birmingham in Jefferson County, be renamed the John M. Harbert Freeway.

BE IT FURTHER RESOLVED, That the proper officials are hereby authorized to erect and maintain appropriate signs and markers designating said John M. Harbert Freeway.

Approved June 2, 1995

Time: 3:54 P.M.

Act No. 95-143 H.J.R. 71 – Rep. Knight (A)

HOUSE JOINT RESOLUTION

DECLARING THAT THE FEDERAL COURTS DO NOT HAVE THE POWER TO INSTRUCT THE STATES TO LEVY OR INCREASE TAXES.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby charge that neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state

or political subdivision thereof, or an official of that state or political subdivision, to levy or increase taxes.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to the members of the United States Supreme Court.

Approved June 6, 1995

Time: 9:35 A.M.

Act No. 95-144 H.J.R. 72 – Rep. Knight (A)

HOUSE JOINT RESOLUTION

RECLAIMING STATE SOVEREIGNTY UNDER THE TENTH AMENDMENT OF THE UNITED STATES CONSTITUTION FOR THE STATE OF ALABAMA.

WHEREAS, the 10th Amendment of the Constitution of the United States reads as follows:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."; and

WHEREAS, the 10th Amendment defines the total scope of federal power as being that specifically granted by the United States Constitution and no more; and

WHEREAS, the scope of power defined by the 10th Amendment means that the federal government was created by the states specifically to be an agent of the states; and

WHEREAS, today, in 1995, the states are demonstrably treated as agents of the federal government; and

WHEREAS, numerous resolutions have been forwarded to the federal government by various states without any response or result from Congress or the federal government; and

WHEREAS, many federal mandates are directly in violation of the 10th Amendment to the Constitution of the United States; and

WHEREAS, the United States Supreme Court has ruled in New York v. United States, 112 S. Ct. 2408 (1992), that Congress may not simply commandeer the legislative and regulatory processes of the state; and

WHEREAS, a number of proposals from previous administrations and some now pending from the present administration and from Congress may further violate the United States Constitution; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the State of Alabama hereby claims sovereignty under the 10th Amendment of the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the United States Constitution.

BE IT FURTHER RESOLVED, That this serve as Notice and Demand to the federal government, as our agent, to cease and desist, effective immediately, mandates that are beyond the scope of its constitutionally delegated powers.

RESOLVED FURTHER, That copies of this resolution be sent to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the Speaker of the House and the President of the Senate of each state's Legislature of the United States of America, and Alabama's Congressional Delegation.

Approved June 6, 1995

Time: 9:40 A.M.

Act No. 95-145 H.J.R. 146 – Rep. Hilliard

HOUSE JOINT RESOLUTION

EXPRESSING SUPPORT OF THE AMTRAK SYSTEM.

WHEREAS, Amtrak is energy efficient and environmentally beneficial, consuming about half as much energy per passenger mile as airlines, and causing less air pollution; and

WHEREAS, Amtrak provides mobility to citizens of many smaller communities poorly served by air and bus services, as well as to those senior citizens, disabled people, students, and persons with medical conditions preventing them from flying who need trains as a travel option; and

WHEREAS, Amtrak is nine times safer than driving on a passenger-mile basis, and operates even in severe weather conditions; and

WHEREAS, Amtrak travel rose 48% from 1982 to 1993, and dramatically improved coverage of its operating costs from revenues; and

WHEREAS, expansion of Amtrak service by using existing rail rights-of-way would cost less and use less land than new highways and airports, and would further increase Amtrak's energy-efficiency advantage; and

WHEREAS, federal investment in Amtrak has fallen in the last decade while it has risen for airports and highways; and

WHEREAS, states may use highway trust fund money as an 80% federal match for a variety of non-highway programs, but they are prohibited from using such monies for Amtrak projects; and

WHEREAS, Amtrak pays a fuel tax that airlines do not pay; and

WHEREAS, Amtrak workers and vendors pay more in taxes than the federal government invests in Amtrak; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we urge the President and the Congress to take the following steps:

That Federal funding of Amtrak not be reduced;

That Amtrak be exempted from paying fuel taxes as are airlines;

That states be given the flexibility to use federal highway trust fund monies on Amtrak projects if they so choose; and

That federal officials include a strong Amtrak system in any plans for a National Transportation System.

Approved June 6, 1995

Time: 9:46 A.M.

Act No. 95-146 S. 46 – Senator Bailey

AN ACT

To amend Section 1 of Act No. 94-706, H. 810, 1994 Regular Session (Acts of Alabama 1994, p. 1369), now appearing as Section 9-17-120 of the Code of Alabama 1975, providing for the installation of certain types of liquefied petroleum gas room heaters in certain residences and used manufactured homes under certain conditions to clarify the definition of used manufactured home.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 94-706, H. 810, 1994 Regular Session (Acts of Alabama 1994, p. 1369), now appearing as Section 9-17-120 of the Code of Alabama 1975, is amended to read as follows:

"Section 1. For the purposes of this act, the following words shall have the following meanings:

"(1) LP-GAS. Liquefied petroleum gas as defined in Section 9-17-100, Code of Alabama 1975.

"(2) USED MANUFACTURED HOME. A manufactured home which is not being sold or offered for sale as new and is used for residential purposes."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 6, 1995

Time: 9:45 A.M.

Act No. 95-147 S. 59 – Senator Mitchell

AN ACT

To provide further for the inventory of certain state property and to amend Sections 36-16-8 and 41-1-6 of the Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 36-16-8 and 41-1-6 of the Code of Alabama 1975, are amended to read as follows:

"§36-16-8.

"The property inventory control division shall establish a control in the following manner of all nonconsumable state personal property not hereinafter exempt under section 36-16-11.

"(1) The head of each department or agency of the state shall designate one of its employees as property manager for the department or agency. Except for books, the property manager shall make a full and complete inventory of all nonconsumable personal property and certain other items of personal property deemed important or sensitive enough by the Property Inventory Control Division to be included in the inventory of state property of the value of five hundred dollars ($500) or more owned by the state and used or acquired by the department or agency. The inventory shall show the complete description, manufacturer's serial number, cost price, date of purchase, location, and custodial agency, responsible officer, or employee, and the state property control marking. A copy of the inventory shall be submitted to the property inventory control division on October 1 and April 1 of each year. Each inventory shall show all property acquired since the date of the last inventory. When any inventory fails to show any property shown on the previous inventory, then a complete explanation accounting for the property or the disposition thereof shall be attached to the inventory and submitted to the property inventory control division. All property managers shall keep at all times in their files a copy of all inventories submitted to the property

inventory control division, and the copies shall be subject to examination by any and all state auditors or employees of the department of examiners of public accounts.

"(2) Each property manager shall be the custodian of, and responsible for, all property in his or her department or agency. When any property is entrusted to other employees or officers of the department or agency, the property manager shall require a written receipt of the property so entrusted, which receipt shall be executed by the person receiving the property. In that event, the property manager shall be relieved of responsibility of the property, and the employee or officer of the department or agency shall be responsible for the property.

"(3) No property shall be disposed of, transferred, assigned, or entrusted to any other department, agency, or employee thereof without the written permission of the director of the Alabama department of economic and community affairs or the governor of the state of Alabama or the designee of either of them.

"(4) Biannually, the property inventory control division shall conduct an inventory of all such state personal property, holding every officer or employee strictly accountable for all personal property assigned to his or her custody.

"(5) Whenever any property manager ceases for any reason to be the property manager of his or her department or agency, the director of the department or agency shall immediately notify in writing the property inventory control division. The division shall immediately check the inventories of all property in the department or agency, and the successor to the property manager shall execute a written receipt for all property received by him or her or coming into his or her custody or control. The last payment of salary due the property manager shall be withheld until a complete check of the inventory of the property has been made and approved. In the event of any shortages, the property manager shall be held strictly accountable. Notwithstanding the foregoing, the property manager shall not be held accountable for property entrusted to any other employee or officer of the department or agency and for which he or she holds the written receipt of the employee or officer."

"§41-1-6.

"After the department has gone on-line with the Department Property Accounting Control System and is using scanning technology for inventory purposes, the property manager of each department or agency of the state shall make a full and complete inventory at least once every 12 months of all nonconsumable

personal property, except books, of the value of five hundred dollars ($500) or more acquired or used by the department or agency."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 6, 1995

Time: 11:00 A.M.

Act No. 95-148 H.J.R. 170 – Rep. Knight (A)

HOUSE JOINT RESOLUTION

URGING THE STATE HEALTH PLANNING AND DEVELOPMENT AUTHORITY (SHPDA) TO RATIFY EXEMPTION GRANTED UNDER ACT NO. 94-209 OF THE 1994 REGULAR SESSION.

WHEREAS, the Alabama Legislature, during the 1994 Legislative Session, debated and considered ways in which to meet the pressing need for additional nursing home beds in the State of Alabama and searched for a legislative solution to encourage gradual steady growth of available nursing home beds in those counties where the need for additional nursing home beds was the most pressing; and

WHEREAS, in the 1994 Regular Session, the Alabama Legislature passed Act No. 94-209, which amended Section 22-21-265 of the Code of Alabama 1975, commonly known as the "Ten Percent Act" which was signed into law on March 17, 1994, thereby creating a statutory system designed to meet the need for additional nursing home beds in the State of Alabama; and

WHEREAS, nursing home facilities in the State of Alabama, in accordance with the intent and purpose of the Alabama Legislature, applied for and received exemptions pursuant to the Ten Percent Act from the Executive Director of the Alabama State Health Planning and Development Agency (SHPDA), and in reliance upon the granting of exemptions pursuant to the Ten Percent Act, constructed additional nursing home beds to meet the pressing need for nursing home beds in the State of Alabama; and

WHEREAS, SHPDA Executive Director, Elbert Peters, and the SHPDA Board have notified numerous nursing home facilities throughout the State of Alabama that exemptions granted pursuant to the Ten Percent Act are being reconsidered and may be revoked; and

WHEREAS, the actions of SHPDA Executive Director, Elbert Peters, and the SHPDA Board threaten to force Alabama residents from nursing home beds lawfully added pursuant to the Ten Percent Act, and threaten to cause nursing home facilities to lose millions of dollars already spent in reliance upon exemptions granted pursuant to the Ten Percent Act thereby endangering the very fabric of the nursing home industry in the State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby urge SHPDA Executive Director, Elbert Peters, and the SHPDA Board to ratify the exemptions granted to nursing home facilities in the State of Alabama pursuant to the Ten Percent Act, and to desist from any further efforts to reconsider or revoke exemptions granted pursuant to the Ten Percent Act, so that Alabama residents may continue to remain in badly needed additional nursing home beds available as a result of the Ten Percent Act, and so that nursing home facilities in the State of Alabama may not lose millions of dollars already spent to provide the badly needed nursing home beds added pursuant to the Ten Percent Act, thus ensuring that the nursing home industry in the State of Alabama may continue to meet the pressing needs of Alabama residents for available nursing home beds.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Mr. Elbert Peters.

This Act became a law under Section 125 of the Constitution on June 7, 1995 without approval by the Governor.

Act No. 95-149

S.J.R. 62 – Senators Freeman, Bedford, Butler, Waggoner, and Mitchem

SENATE JOINT RESOLUTION

URGING THE STATE HEALTH PLANNING AND DEVELOPMENT AUTHORITY (SHPDA) TO RATIFY EXEMPTION GRANTED UNDER ACT NO. 94-209 OF THE 1994 REGULAR SESSION.

WHEREAS, the Alabama Legislature, during the 1994 Legislative Session, debated and considered ways in which to meet the pressing need for additional nursing home beds in the State of

Alabama and searched for a legislative solution to encourage gradual steady growth of available nursing home beds in those counties where the need for additional nursing home beds was the most pressing; and

WHEREAS, in the 1994 Regular Session, the Alabama Legislature passed Act No. 94-209, which amended Section 22-21-265 of the Code of Alabama 1975, commonly known as the "Ten Percent Act" which was signed into law on March 17, 1994, thereby creating a statutory system designed to meet the need for additional nursing home beds in the State of Alabama; and

WHEREAS, nursing home facilities in the State of Alabama, in accordance with the intent and purpose of the Alabama Legislature, applied for and received exemptions pursuant to the Ten Percent Act from the Executive Director of the Alabama State Health Planning and Development Agency (SHPDA), and in reliance upon the granting of exemptions pursuant to the Ten Percent Act, constructed additional nursing home beds to meet the pressing need for nursing home beds in the State of Alabama; and

WHEREAS, SHPDA Executive Director, Elbert Peters, and the SHPDA Board have notified numerous nursing home facilities throughout the State of Alabama that exemptions granted pursuant to the Ten Percent Act are being reconsidered and may be revoked; and

WHEREAS, the actions of SHPDA Executive Dlrector, Elbert Peters, and the SHPDA Board threaten to force Alabama residents from nursing home beds lawfully added pursuant to the Ten Percent Act, and threaten to cause nursing home facilities to lose millions of dollars already spent in reliance upon exemptions granted pursuant to the Ten Percent Act thereby endangering the very fabric of the nursing home industry in the State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby urge SHPDA Executive Director, Elbert Peters, and the SHPDA Board to ratify the exemptions granted to nursing home facilities in the State of Alabama pursuant to the Ten Percent Act, and to desist from any further efforts to reconsider or revoke exemptions granted pursuant to the Ten Percent Act, so that Alabama residents may continue to remain in badly needed additional nursing home beds available as a result of the Ten Percent Act, and so that nursing home facilities in the State of Alabama may not lose millions of dollars already spent to provide the badly needed nursing home beds added pursuant to the Ten Percent Act, thus insuring that the nursing home industry in the State of Alabama may

continue to meet the pressing needs of Alabama residents for available nursing home beds.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Mr. Elbert Peters.

This Act became a law under Section 125 of the Constitution on June 7, 1995 without approval by the Governor.

Act No. 95-150 H.J.R. 216 – Rep. Hammett

HOUSE JOINT RESOLUTION

RELATIVE TO MEETING DAYS.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That when the two houses adjourn Thursday, June 8, 1995, they adjourn to meet again on Tuesday, June 13, 1995, and when they adjourn on Tuesday they adjourn to meet again on Wednesday, June 14, 1995, and when they adjourn on Wednesday they adjourn to meet again on Thursday, June 15, 1995.

Approved June 8, 1995

Time: 9:45 A.M.

Act No. 95-151 H.J.R. 188 – Rep. Hammett

HOUSE JOINT RESOLUTION

RELATIVE TO MEETING DAYS.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That when the two houses adjourn Thursday, June 1, 1995, they adjourn to meet again on Tuesday, June 6, 1995, and when they adjourn on Tuesday they adjourn to meet again on Thursday, June 8, 1995.

Approved June 8, 1995

Time: 9:46 A.M.

Act No. 95-152 H.J.R. 179 – Rep. McKee

HOUSE JOINT RESOLUTION

COMMENDING ANITA TATUM FOR OUTSTANDING CONTRIBUTIONS AND ACHIEVEMENT.

WHEREAS, it is with highest commendation and acclaim that the Legislature of Alabama notes the recent election of Anita Tatum as president of the National Association of State Election Directors; and

WHEREAS, Anita Tatum, as Director of Voter Registration for the State of Alabama since 1989, has served with distinction in her charge to improve the validity of Alabama's voters' list and the integrity of state elections; and

WHEREAS, under the authority of the Board of Appointment of Registrars, she has ably and well served the vast duties and responsibilities of her office to oversee past and future directives of Alabama and Federal voter registration laws, to create and maintain a centrally located computerized voters' list for the state, and to work with the Secretary of State in implementing Motor Voter; and

WHEREAS, in extended professional service, she has held the position as president of the Alabama Association of Boards of Registrars for three years, and served as a member of the Montgomery County Board of Registrars and the Election Center Continuing Education Certification Board; she has also testified before the U. S. Congress on the National Voter Registration Act and, in July of 1992, appeared on the McNeil/Lehrer NewsHour discussing Motor Voter; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That upon her election as president of the National Association of State Election Directors, and in recognition of outstanding performance and achievement, we hereby extend highest commendation and heartiest congratulations to Anita Tatum, and do further direct that she receive a copy of this resolution as a measure of our sincere personal regard and esteem.

Approved June 8, 1995

Time: 9:47 A.M.

Act No. 95-153 H.J.R. 182 – Rep. Thomas (D)

HOUSE JOINT RESOLUTION

COMMENDING NICOLETTE MOLENAAR OF HOLLAND, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, it is with great pride and pleasure that the Alabama Legislature honors Nicolette Molenaar, an exchange

student at Springville High School in St. Clair County, Alabama; and

WHEREAS, Nicolette Molenaar, a native of Vredenburg, South Africa, and daughter of Floor and Dymph Molenaar, has lived in Honduras and Australia, and grew up in the Netherlands in Callantsoog on the coast of the North Sea; and she has furthermore enjoyed seeing the sights of Alabama; and

WHEREAS, Nicolette Molenaar, who fluently speaks Dutch, German, and English, has spent the school year with Michael and Joan Sweatt, along with their two children, Eric and Amanda, and will graduate from Springville High School on May 30, 1995; and

WHEREAS, Nicolette has furthermore provided an opportunity for a sharing experience with the families, friends, and students of Springville, and is well deserving of this special recognition to honor her tremendous courage; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby highly commend and warmly congratulate Nicolette Molenaar, an exchange student of Springville High School, and furthermore extend her best wishes on her future endeavors.

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to Nicolette as evidence of our sincerest pride and esteem.

Approved June 8, 1995

Time: 9:48 A.M.

Act No. 95-154 **H.J.R. 184 – Rep. Parker (T)**

HOUSE JOINT RESOLUTION

COMMENDING SUZANNE JACKSON CRUMP OF TUSCALOOSA, ALABAMA.

WHEREAS, it is with a sense of sincere pride and esteem that the Alabama Legislature honors Mrs. Suzanne J. Crump of Tuscaloosa, Alabama, as the recipient of Alabama's Social Studies Teacher of the Year Award; and

WHEREAS, a seventh grade social studies teacher at Tuscaloosa Middle School, Mrs. Crump received her Educational Specialist and Master of Arts degrees from the University of Alabama, and Bachelor of Arts in Secondary Education from Judson College; and

WHEREAS, Mrs. Crump has made immeasurable contributions throughout her distinguished career as a teacher at Parkview Learning Center, Westlawn Middle School, and Verner Elementary School in the Tuscaloosa City System, and Virginia Heard Elementary School in Savannah, Georgia, and as a Master Teacher of Handicapped Students, Graduate Assistant Teacher, and Graduate Assistant for the University of Alabama; and

WHEREAS, an active participant in such notable professional organizations as Delta Kappa Gamma, Kappa Delta Pi, and the Professional Educators of Tuscaloosa, Suzanne Crump has been honored as a Tuscaloosa City School System nominee for Alabama Teacher of the Year, a finalist in the Jacksonville State University Teacher Hall of Fame, and is the recipient of the Faculty Recognition Award for Elementary Education and the Educator of the Year Award from the University of Alabama and Phi Delta Kappa, respectively; and

WHEREAS, Mrs. Crump is active in all areas of her community serving as an appointee of the City Council to the Juvenile Crime Commission, a member of the Juvenile Detention Board and Junior League, and Division Chairman of the Heart Fund, American Cancer Society, and the United Way, to name but a few; and

WHEREAS, a member and active participant of First United Methodist Church, Suzanne, along with her husband Dr. Donald Crump, are the proud parents of one adult son and daughter; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend paramount praise and warmest congratulations to Mrs. Suzanne Crump of Tuscaloosa, Alabama, as Alabama's Outstanding Social Studies Teacher of the Year, and do furthermore direct that a copy of this resolution be provided as evidence of our appreciation and esteem.

Approved June 8, 1995

Time: 9:49 A.M.

Act No. 95-155 H.J.R. 192 – Rep. Laird

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF MARK WINDSOR OF ROANOKE, ALABAMA.

WHEREAS, it is with profound sorrow that the Alabama Legislature records the untimely death of Mark Windsor of Roanoke, Alabama, on May 6, 1995, at the age of just 28 years; and

WHEREAS, Mark Windsor, who was a deputy with the Randolph County Sheriff's Department, was accidentally killed while on call in the line of duty; and

WHEREAS, Deputy Windsor began his career in the department in 1992, as a radio dispatcher, and subsequently worked as jailer/dispatcher before assuming his position as deputy in March of 1995, shortly before his death; and

WHEREAS, over his all too brief career, Mark Windsor served with diligence and commitment in his charge to uphold the law and defend the peace to the good and well-being of his fellow citizens; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as we mourn his death, we give thanks for the life and service of Deputy Mark Windsor of Roanoke, Alabama, and extend our deepest heartfelt sympathy to his devoted wife, June, and stepson, Cody; to his father and mother, James and Jackie Windsor; brother, Gordon, and twin brother, Clark; and to other family members, for whom a copy of this resolution of sincere condolence shall be provided.

Approved June 8, 1995

Time: 9:50 A.M.

Act No. 95-156 H.J.R. 194 – Reps. Jorgensen, Hinshaw, Haney, Sanderford, Carter, Hall (L), Hammett

HOUSE JOINT RESOLUTION

EXPRESSING SYMPATHY AND SUPPORT FOR STORM VICTIMS IN NORTH ALABAMA.

WHEREAS, in late afternoon, May 18, 1995, a deadly tornado ripped across scattered communities along a 40-mile track of North Alabama, injuring dozens, and leaving hundreds homeless; and

WHEREAS, especially hard hit were communities of Madison and Limestone Counties including the Oakdale community, northeast of Athens in Madison County, where one man, a victim of the

demolished Oakdale Mobile Home Court, later died as a result of his injuries; others included the Anderson Hills subdivision in northwest Huntsville, the Saddle Creek Estates subdivision in New Market, and the communities of Hazel Green and Harvest, among others; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are grieved by the loss and devastation suffered by the victims of this destructive storm, and express our sympathy in their pain and suffering, and our faithful support in their efforts to recover from this terrible tragedy.

Approved June 8, 1995

Time: 9:51 A.M.

Act No. 95-157 H.J.R. 200 – Reps. Mitchell, Kennedy, Clark (W), Buskey

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF ANNIE PEARL RICHARDSON OF MOBILE, ALABAMA.

WHEREAS, it is with deep and abiding grief that the Alabama Legislature records the lamentable death of Mrs. Annie Pearl Richardson of Mobile, Alabama, on May 12, 1995; and

WHEREAS, Mrs. Richardson, a native of Perry County and a beloved member of the Mobile community for the past 49 years, retired as a teacher following 28 years of distinguished service with the Mobile County Public School System; and

WHEREAS, throughout her lifetime, Mrs. Richardson, a warm and caring lady, exhibited, both in her personal and professional life, a consuming interest in the happiness and well-being of others through her dedicated efforts on their behalf; and

WHEREAS, this was demonstrated through her devotion to the needs of her family, many friends, and neighbors; through leadership and support of her church, St. Peter Baptist, where she served as a Sunday School teacher, and as a member of the Senior Choir, and such organizations as the Alabama State University Alumni Association, Retired Teachers Association, and national, state, and local education associations; and in numerous other activities of community interest and concern; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as her

death is mourned, thanks are given to God for the life and service of Mrs. Annie Pearl Richardson of Mobile, Alabama, and, by copy of this resolution, deepest sympathy is hereby extended to her husband, Nathaniel A. Richardson; daughter, Alberta Richardson; sons, Palmer, James, and Nathaniel, Jr.; to her three sisters and brother; four grandchildren and three great-grandchildren; and to the many members of her extended family who share with countless others their great and grievous loss.

Approved June 8, 1995

Time: 9:52 A.M.

Act No. 95-158 H.J.R. 201 – Rep. Hogan

HOUSE JOINT RESOLUTION

RECOGNIZING AND COMMENDING THE JEFFERSON LOVELL CHAPTER #2575, UNITED DAUGHTERS OF THE CONFEDERACY, JASPER, ALABAMA.

WHEREAS, the United Daughters of the Confederacy, an organization of women directly descended from members of the army and navy of the Confederacy founded in 1894, has played a prominent role in American life over the years; and

WHEREAS, with the motto, "Think, Love, Pray, Dare, Live," the colors of Red and White, and its flower the Camellia, the Jefferson Lovell Chapter #2575 of the United Daughters of the Confederacy, Jasper, Alabama, was chartered December 1, 1993, with eight charter members: Mrs. Ray Fowler (June Kelly), Mrs. J D. Kelly (Kessie Scott), Mrs. Kathy Kelley Quinn, Mrs. John Richardson (Sandra Kelley), Ms. Ginger Richardson, Mrs. Robert Sanford (Bonnie Nix), Mrs. Paul Sides (Frances Kelley), and Mrs. William Yoder (Mary Scarborough); and

WHEREAS, in the years since, this dedicated group of women have worked diligently to preserve the history and time-honored tradition of service of the UDC through their on-going patriotic, educational, benevolent, historical, and memorial-related activities and programs; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding service to the community, state, and nation, we hereby most highly commend and recognize the Jefferson Lovell Chapter #2575, United Daughters of the Confederacy, Jasper,

Alabama, and do further direct that a copy of this resolution be provided for the chapter as a measure of our tribute and esteem.

Approved June 8, 1995

Time: 9:53 A.M.

Act No. 95-159 H.J.R. 203 – Reps. Sanderford, Haney, Papucci, Hinshaw, Hall (A), Hall (L)

HOUSE JOINT RESOLUTION

COMMENDING NANCY CARTER BILLINGS OF HUNTSVILLE, ALABAMA.

WHEREAS, it is with great pride that the Alabama Legislature honors Nancy C. Billings of Huntsville, Alabama, as the recipient of the Alabama Home Economics Section, Alabama Vocational Association Teacher of the Year Award; and

WHEREAS, a teacher at Whitesburg Middle School, Nancy Billings has served as a vocational home economics teacher at Pilot Grove Public Schools and Fairfax County Virginia Public Schools, and has furthermore been a student teacher supervisor, reading teacher, substitute teacher, and clothing teacher throughout her extensive and distinguished career in education; and

WHEREAS, listed in the 4th Edition of Who's Who in American Education 1994-95, Mrs. Billings is an active participant in numerous professional activities such as the Alabama Vocational Association, National Education Association, and the American Home Economics Association, where she has served as state chairperson for Georgia and Alabama; and

WHEREAS, Nancy Billings, who earned a Bachelor's degree from Southwest Missouri State University, a Master's degree from the University of Missouri, and teacher certifications from the University of Georgia and the University of Alabama in Huntsville, is a member of countless community and civic organizations such as the Huntsville Newcomers Club, Huntsville Museum of Art, and the Spring Hill Chapter of the Daughters of the American Revolution, to name but a few; and

WHEREAS, a devoted member of First United Methodist Church, Nancy is the dedicated wife of Clarence David Billings, and they are the parents of two children, John David and Amanda Gayle; and

WHEREAS, Nancy C. Billings has indeed demonstrated those finest qualities of leadership, guidance, and kindness to all her

students throughout the years, and is well deserving of this special recognition; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and warmest congratulations to Nancy C. Billings of Huntsville, Alabama, as the Home Economics Section, Alabama Vocational Association Teacher of the Year, and do furthermore direct that a copy of this resolution be provided as evidence of our great appreciation and esteem.

Approved June 8, 1995

Time: 9:54 A.M.

Act No. 95-160 H.J.R. 205 – Rep. Venable

HOUSE JOINT RESOLUTION

COMMENDING THE TALLASSEE HIGH SCHOOL BASEBALL TEAM FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, it is with great pride and pleasure that the Alabama Legislature recognizes the Tallassee High School Baseball Team, who earned the title of Alabama 4A State Champions; and

WHEREAS, under the leadership of Head Coach John Goodman and his able Assistant Coaches Mark Segrest, Jeri Goodman, and Kevin Jordan, the Tallassee High School Baseball Team, who have won this title for the sixth time since 1986, set a new school record with their spectacular season of 30 wins and only 6 losses; and

WHEREAS, the members of the Tallassee High School Baseball Team who are well deserving of this special recognition are: Klay Peters, Brent Miliner, Brent Timmerman, Rodricues Williams, Adam Clayton, Jamon Matthews, Wesley Holt, Kris Fulford, Stephen Webster, Josh Cullars, David Rogers, Robbie Pressley, Justin Mann, Justin Crain, Doug Walters, Andy Davidson, Jonathan Ingram, Courtney Thornton, David Warren, Brad Mason, Jason Hornsby, Neil Martin, Justin Ellis, and Team Manager John Rogers; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and warmest congratulations to the members and coaches of the Tallassee Baseball Team for earning the 1995 Alabama State 4A Championship Title, and do

furthermore direct that copies of this resolution be provided to Coach John Goodman as evidence of our pride and esteem and for appropriate display at Tallassee High School.

Approved June 8, 1995

Time: 9:55 A.M.

Act No. 95-161 H.J.R. 209 – Rep. Carter

HOUSE JOINT RESOLUTION

COMMENDING JANE WATKINS UPON HER RETIREMENT FROM CALHOUN COMMUNITY COLLEGE.

WHEREAS, the Alabama Legislature, in consensus of commendation, notes the retirement of Jane Watkins, following a distinguished career at Calhoun Community College for the last 13 years, and in the teaching profession for more than 20 years; and

WHEREAS, over the course of her longtime tenure, Mrs. Watkins, a truly dedicated professional, has demonstrated utmost commitment and concern for the education and well-being of her young students; and the lasting impact she has made upon their lives has greatly contributed to their future as successful and responsible citizens; and

WHEREAS, Mrs. Watkins, a teacher of mathematics, began her career at the University of Alabama in Huntsville before joining the faculty at Calhoun College more than a decade ago; and

WHEREAS, in addition to her teaching responsibilities, Mrs. Watkins has given generously of her time and talent in extended service to her profession, as well as in active support of church and community affairs; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding contributions and service to Calhoun Community College, and to education in our state, we hereby most highly commend Mrs. Jane Watkins, and do further direct that a copy of this resolution be presented to Mrs. Watkins on the occasion of a retirement luncheon to be held in her honor, June 2, 1995.

Approved June 8, 1995

Time: 9:56 A.M.

Act No. 95-162 H.J.R. 211 – Rep. Morrow

HOUSE JOINT RESOLUTION

COMMENDING THE FRANKLIN COUNTY SHERIFF'S DEPARTMENT FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, it is with highest commendation that the Legislature of Alabama notes the arrest, on May 28, 1992, in Russellville, Alabama of an international fugitive by the Franklin County Sheriff's Department, by efforts coordinated with U.S. Marshals and U.S. Custom Agents, among other law enforcement officials; and

WHEREAS, following the fugitive's capture, on warrants from Scotland Yard and the State of Louisiana, information uncovered by Franklin County Sheriff Larry Plott, and others on the scene, led to a nearby county residence and the discovery of a drug lab and a formula for developing crystal methamphetamine, a dangerous illicit drug commonly called "ice" or "speed," and by other street names; and

WHEREAS, also seized were some 132 pounds of the finished product, as well as chemicals, cash, equipment valued at $885,000, and receipts for two storage facilities later found to contain other chemicals used for processing "ice," and the necessary equipment for setting-up two additional labs; and

WHEREAS, after a five-year international police operation, Sheriff Plott's department, and other agencies involved, are credited with shutting down what is believed to be the largest operation of its kind ever discovered in the State of Alabama, and the largest illegal drug factory operating in England, capable of producing $30,000,000 worth of drugs every 2 days; and

WHEREAS, after a lengthy extradition process between British and American authorities, the fugitive and another American involved in the drug conspiracy were tried, convicted, and jailed for a total of 20 years for their part in one of the major drug manufacturing conspiracies of the century; and

WHEREAS, the high degree of training and the professionalism reflected in the capture of a fugitive from justice in the United States and England is a law enforcement success story in which the entire State of Alabama takes pride, and most particularly in the key role of Sheriff Larry Plott and members of his department who are indeed deserving of special recognition; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Franklin County Sheriff Larry Plott and his staff for extraordinary achievement, and do further direct that he and his department receive a copy of this resolution of sincere and heartfelt tribute.

Approved June 8, 1995

Time: 9:57 A.M.

Act No. 95-163 H.J.R. 212 – Reps. Graham, Hall (A)

HOUSE JOINT RESOLUTION

COMMENDING ANDREW OLIVER WHITE OF DADEVILLE, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, it is with highest esteem and utmost pleasure that the Alabama Legislature notes the tremendous accomplishments of Andrew Oliver White of Dadeville, Alabama; and

WHEREAS, on May 23, 1995, Andy graduated from Dadeville High School as the 1995 Class Valedictorian receiving the prestigious recognition of an Honors Diploma; and

WHEREAS, Andy White has made enormous contributions and excelled in all areas of student life as a scholar, athlete, and active participant in numerous extra-curricular activities; he has received three letters as a member of the football team, where he served as captain; earned the highest average in math, science, and history; and he furthermore represented Dadeville High School at the Boys State Competition, and is a member of the Beta Club; and

WHEREAS, the son of our dear friend and former Alabama House Representative, Lester White, Andy indeed exemplifies those finest qualities of leadership, scholarship, and integrity, and is well deserving of this special recognition; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and warmest congratulations to Andrew Oliver White of Dadeville, Alabama, in tribute to his outstanding achievement, and do furthermore direct that a copy of this resolution be provided as evidence of our sincerest pride and deepest personal regard.

Approved June 8, 1995

Time: 9:58 A.M.

Act No. 95-164 S.J.R. 75 – Senators Lindsey, Adams, Amari, Armistead, Bailey, Barron, Bedford, Biddle, Butler, Clay, Davidson, Denton, Dial, Dixon, Escott-Russell, Figures, Freeman, Ghee, Hale, Hill, Langford, Lipscomb, Little, McClain, Mitchell, Mitchem, Myers, Poole, Roberts, Sanders, Smith, Smitherman, Steele, Waggoner, and Windom

SENATE JOINT RESOLUTION

COMMENDING "SKATE THE STATE" PARTICIPANTS.

WHEREAS, In-line skating is the fastest growing sport in America. There is a marked increased in activity in 'higher risk' sports such as bicycling, in-line skating and skateboarding during spring. With this comes an increase in skating and bicycling injuries, including head injuries; and

WHEREAS, In 1994 there were 73,000 trips to emergency medical facilities due to in-line skating accidents. The Consumer Product Safety Commission issued a report suggesting a dramatic rise in the number of in-line skating injuries - up to 15 million. Without a helmet, skaters are nine times more likely to suffer a head injury; and

WHEREAS, Bikes are owned by 30% of the population. Approximately eighty to ninety percent of children own a bike by the time they are in second grade. The main barriers to youngsters' helmet use are parents' lack of awareness of the need, cost and peer pressure. Fewer than ten percent of all cyclists wear helmets and fewer than two percent under age fifteen wear them; and

WHEREAS, The annual societal cost of bicycle-related injuries and deaths is approximately eight billion dollars. According to the Centers for Disease Control in Atlanta, from 1984-1988, universal use of helmets by all bicyclists could have prevented as many as 2500 deaths and 757,000 head injuries (one death every day and one head injury every four minutes); and

WHEREAS, Three in-line skaters will skate over 500 miles north to south across Alabama, from Huntsville to Mobile, promoting proper skating and bicycling technique and safety. The Alabama Power In-line Racing Team will skate to creatively

promote road safety and safety helmets through high school and middle school presentations and editorial opportunities; and

WHEREAS, May 12-27, 1995, skaters will spend fifteen days on the road, skating an average of forty miles per day. May 22-27, 1995, is Buckle Up America Week, and skaters will arrive on the coast Memorial Day Weekend, one of the highest risk times of the year; and

WHEREAS, Three men from Birmingham who skate together through Skate Sport South make up The Alabama Power In-line Racing Team: Rene Ferrier is a native South American now in Birmingham, who formerly skated in New York's Central Park. Trevor C. Hale organized the promotion, and works as public relations manager at SlaughterHanson in Birmingham. Dano Loudon started Skate Sport South and is an avid promoter of in-line speed skating and in-line hockey. All three completed last year's Athens To Atlanta 85 mile in-line marathon; and

WHEREAS, The Alabama Department of Transportation, Alabama Power, Roces, D. B. Enterprises, Kryptonics, RUST International, Twin Cam, Cahaba Cycles, Birmingham Two Way, SlaughterHanson, BellSouth Mobility and AAA are helping sponsor Skate The State;

NOW THEREFORE BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we recognize the importance of safety and commend the Skate The State participants and sponsors for their initiative and effort in promoting safety helmet awareness in such a creative manner, and furthermore direct that a copy of this resolution be provided as evidence of our appreciation and esteem.

Approved June 8, 1995

Time: 9:30 A.M.

Act No. 95-165 S.J.R. 76 – Senators Lindsey, Windom, Little, Hill and Lipscomb

SENATE JOINT RESOLUTION

COMMENDING CHARLES D. KELLEY OF MONTGOMERY, ALABAMA.

WHEREAS, it is with great pride and utmost pleasure that the Alabama Legislature honors Charles D. Kelley of Montgomery, Alabama, for 40 years of outstanding service with the Department of Conservation and Natural Resources; and

WHEREAS, serving as Director of the Game and Fish Division for the past 34 years, Charles Kelley has made invaluable contributions to the State of Alabama through his innovative ideas which have promoted the state's hunting and fishing to multi-million dollar industries; led to the legendary rebirth of the deer population; and have attracted outdoorsmen from across the U.S. to venture to Alabama to play; and

WHEREAS, the longest tenured Game and Fish Director in the U.S., Charles Kelley has served as Commissioner of the Department of Conservation and Natural Resources, President of International Association of Fish and Wildlife Agencies, and Vice-President of the National Wildlife Federation, among others too numerous to mention; and

WHEREAS, in recognition of his tremendous accomplishments, Charles has been the recipient of numerous honors such as the Alabama and National Conservationist of the Year Award, the Executive of the Year Award by the Capital City Chapter of Professional Secretaries International, and the C. W. Watson Award from the Southern Association of Fish and Wildlife Agencies, to name but a few; and

WHEREAS, Charles Kelley, who earned a Bachelor's degree from Auburn University, has also enjoyed a distinguished military career spanning almost fifty years; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and paramount praise to Charles D. Kelley of Montgomery, Alabama, for 40 years of outstanding service with the Department of Conservation and Natural Resources, and do furthermore direct that a copy of this resolution be provided as evidence of our appreciation and esteem.

BE IT FURTHER RESOLVED, That we hereby request the Commissioner of Conservation and Natural Resources to assign Charles D. Kelley to represent the department during legislative sessions.

Approved June 8, 1995

Time: 9:31 A.M.

Act No. 95-166 S.J.R. 77 – Senator Armistead

SENATE JOINT RESOLUTION

DESIGNATING JUNE 1995 AS FATHERHOOD MONTH IN THE STATE OF ALABAMA.

WHEREAS, the health of a nation and the well-being of the cities and communities that constitute the State of Alabama and the United States of America are intimately associated with the well-being of families; and

WHEREAS, the well-being of the family, and the health and happiness of the children that dwell within them are intimately associated with the presence and participation of fathers in the home; and

WHEREAS, fathers play an irreplaceable role in the lives of children, through leadership and love, gentle encouragement and wise discipline, and their daily and enduring example; and

WHEREAS, fathers provide their daughters with their original understanding of masculine prudence and protection, and their sons with the original understanding of self-restraint and patient labor; and

WHEREAS, social and economic forces have combined to place great stress on the family, lending even greater significance to the qualities of perseverance and service in the paternal role; and

WHEREAS, the absence of fathers, through the failure of families to form, or the breakdown of existing families, is at record levels in America; and

WHEREAS, Alabama ranks 45th among the states in the percentage of births to single teenage mothers, as well as 45th among the states in the percentage of children living in single-parent households; and

WHEREAS, it is in the interest of the State of Alabama, and its citizens who believe in family values, to honor fathers, to reinforce them in their natural duty, and to remind all institutions of their responsibility to honor and encourage fathers in their essential and honorable tasks; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby recognize and designate June 1995 as Fatherhood Month in Alabama, and do further urge all public and private institutions, civic organizations, and every person of good will within the State of Alabama to observe this occasion, and the fathers of the the state to reflect anew upon their unique and deeply appreciated contributions to their families, state and nation, and to rededicate themselves to the valuable work of fatherhood.

Approved June 8, 1995

Time: 9:32 A.M.

Act No. 95-167 S.J.R. 79 – Senators Butler, Freeman, Denton, Roberts, Barron, Bedford, Mitchem, and Hale

SENATE JOINT RESOLUTION

URGING THE PRESIDENT AND THE UNITED STATES CONGRESS TO SUPPORT THE CONTINUING EXISTENCE OF THE NATIONAL WEATHER SERVICE STATION IN HUNTSVILLE, ALABAMA.

WHEREAS, the National Weather Service Station office located in Huntsville, Alabama, has proven to be a valuable resource in protecting the lives of citizens in all North Alabama counties against threatening weather; and

WHEREAS, severe tornadoes recently caused extensive destruction in the northern town of Arab, Alabama, and on May 18, 1995, as the result of severe weather in northern Alabama, large portions of Madison, Limestone, Colbert, and other counties suffered loss of life and immense and far-reaching property destruction; and

WHEREAS, if the impending 1995 closure of the Huntsville office of the National Weather Service comes to fruition, the devastating repercussions to the North Alabama area will include the loss of the radar capabilities of the station, the loss of the expertise of the staff of meteorologists that man the station, and reduced effectiveness in the area for tracking violent storm cells; and

WHEREAS, the Huntsville station has consistently provided the citizens of the Northern Alabama counties with reliable advanced warning of severe weather where immediate action on the part of the citizenry was required to find shelter to avoid the loss of life and limb when confronted with approaching violent storms and tornadoes; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we strongly encourage the President and the United States Congress to support the National Weather Station office in Huntsville.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to President Clinton and each member of the Alabama Congressional Delegation.

Approved June 8, 1995

Time: 9:33 A.M.

Act No. 95-168 S.J.R. 80 – Senator Sanders

SENATE JOINT RESOLUTION

HONORING THE REVEREND CHARLES A. LETT, JR., FOR OUTSTANDING ACHIEVEMENT AND SERVICE.

WHEREAS, it is with utmost pride that the Legislature of Alabama extends highest acclaim to Reverend Charles A. Lett for tremendous contributions and dedication as a pastor of God; and

WHEREAS, the son of the late Charles A. Lett, Sr. and Elizabeth Lett, Charles is the pastor of Calvary Missionary Baptist Church, where he has embodied all those fine qualities of leadership and guidance; and

WHEREAS, Reverend Lett earned both Bachelor of Arts and Bachelor of Divinity degrees from Selma University, and a certificate to teach at Alabama State Teachers College, which he utilized as a teacher in Baldwin County, at Selma University, and as principal of Douglasville High School; and

WHEREAS, also the recipient of Doctor of Divinity and Doctor of Laws degrees, Reverend Lett has pastored churches in Baldwin, Monroe, and Escambia Counties, and at Green Street Baptist Church in Selma, Alabama; and

WHEREAS, serving as President of the Selma City School Board, local NAACP, Selma Interracial Alliance, and the Southwest District State Convention, Reverend Lett has made many invaluable contributions to all areas of community life and is well deserving of this special recognition; and

WHEREAS, Reverend Lett, along with his devoted wife of 56 years, Minnie Thomas, are the proud parents of two sons, William Cedric and Charles Lebarron; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby accord highest commendation to The Reverend Charles A. Lett, Jr., pastor of Calvary Missionary Baptist Church, in honor of his countless and notable contributions to the well being of our state.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided for Reverend Lett as evidence of our great appreciation and esteem.

Approved June 8, 1995

Time: 9:34 A.M.

Act No. 95-169 H. 78 – Rep. Parker (P)

AN ACT

Relating to the compensation of the Morgan County Superintendent of Education; amending Section 1 of Act No. 91-477, H. 578 of the 1991 Regular Session (Acts 1991, p. 865), to further provide for the salary.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act NO. 91-477, H. 578 of the 1991 Regular Session (Acts 1991, p. 865) is amended to read as follows:

"Section 1. Effective with the next term of office, the Superintendent of Education of Morgan County shall be paid an annual salary to be set by the Morgan County Board of Education. The salary of the superintendent of education shall be an amount not less than one hundred fifteen percent of the annual salary of the highest paid principal in the Morgan County public school system."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 8, 1995

Time: 5:40 P.M.

Act No. 95-170 H. 86 – Rep. Parker (P)

AN ACT

Relating to Morgan County; to authorize the establishment and operation of a county archives; and to provide for funding and staffing of the archives.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply only to Morgan County.

Section 2. The Legislature finds that Morgan County has a legal obligation to create and maintain records which document its work and to make those records accessible to the public. The Legislature further finds that the current storage facilities and method of providing access to those records are inadequate to meet the needs of the county government and the citizens of Morgan County.

Section 3. The county commission may establish the Morgan County Department of Archives and History to facilitate the preservation, conservation, and accessibility of the records of

Morgan County through the operation of the Morgan County Archives. The Morgan County Department of Archives and History shall be a separate department of the Morgan County government under the control of the county commission.

Section 4. The Morgan County Archives shall act as a separate depository for the archival and historic records of all branches of Morgan County government including, but not limited to, the county commission, the judge of probate, the office of the revenue commissioner, the office of the license commissioner, and the sheriff's department. Any records required to be kept by law by any of the above county officers or departments may be stored in the Morgan County Archives by agreement of the county officer or department. In addition, the Morgan County Archives may act as a depository for items of historical significance from the private sector of Morgan County including, but not be limited to, photographs, books, family histories, diaries, letters, ledgers, and artifacts.

Section 5. The Morgan County Archives shall be funded by filing and transaction fees from the departments of government that it serves; by the county commission; by private donations from individuals, corporations, and nonprofit organizations; by grants; and by revenues generated by providing archival and records management services to local government offices not included in the Morgan County budget system. The Morgan County Commission may set filing and transactions fees from departments of government and others for services provided by the Morgan County Archives, including, but not limited to, the storing of records, use of records, and copying.

Section 6. The Morgan County Archives shall provide assistance to the departments of the Morgan County government in the development and operations of the Record Management Program of the county upon request from the department and with the approval of the county commission.

Section 7. The staff of the Morgan County Archives shall consist of an archivist and other employees deemed necessary by the archivist and county commission. The archivist shall meet the minimum requirements set forth in the State of Alabama personnel announcement for archivist, currently designated Class Code 1-30430. The staff of the Morgan County Archives shall be classified according to the standard personnel system currently used by the Morgan County Commission and the State of Alabama and shall receive the same benefits as other Morgan County employees of the same grade.

Section 8. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 9. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 8, 1995

Time: 5:41 P.M.

Act No. 95-171 H. 88 – Rep. Black (L)

AN ACT

Relating to Sumter County; providing for the distribution of certain funds received by the county from the disposal of hazardous waste; and to provide for retroactive effect.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall only apply to Sumter County.

Section 2. All funds received by the Sumter County Commission pursuant to Section 22-30B-2.1 of the Code of Alabama 1975, shall be distributed pursuant to Act 83-480, H. 669, 1983 Regular Session (Acts 1983, p. 672), as amended by Act No. 86-338, S. 585, 1986 Regular Session (Acts 1986, p. 512).

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 4. The provisions of this act are curative and remedial and shall have retroactive effect to January 1, 1990, and any actions taken or payment made in accordance with the provisions of this act since that date are ratified, validated, and confirmed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 8, 1995

Time: 5:42 P.M.

Act No. 95-172 H. 418 – Rep. Layson

AN ACT

Relating to Pickens County; providing for the fee for the issuance of pistol permits; providing for the deposit of fees in a fund known as the Sheriff's Pistol Permit Fund; and providing for the use of the fund and repealing Act No. 529, H. 574 of the 1971 Regular Session (Acts 1971, p. 1256) and Act No. 83-551, H. 520 of the 1983 Regular Session (Acts 1983, p. 850).

Be It Enacted by the Legislature of Alabama:

Section 1. In Pickens County, the fee for issuance of a permit to carry a pistol in a vehicle or concealed on or about the person as provided in Title 13A-11-75, Code of Alabama 1975, shall be twenty dollars ($20), which shall be collected by the sheriff.

Section 2. The fees collected under this act shall be deposited by the Sheriff of Pickens County in any bank located in Pickens County selected by the sheriff into a fund known as the Sheriff's Pistol Permit Fund.

Section 3. The Sheriff's Pistol Permit Fund as provided in this act shall be drawn upon by the Sheriff of Pickens County or his or her appointed agent and shall be used exclusively for law enforcement purposes in the public's interest and in the discharge of the duties of the sheriff's office as the sheriff sees fit.

Section 4. The establishment of the Sheriff's Pistol Permit Fund as provided in this act and the use of the funds shall in no way diminish or take the place of any other source of income established for the sheriff or the operation of his office.

Section 5. All laws or parts of laws in conflict with this act are hereby repealed and specifically Act No. 529, H. 574 of the 1971 Regular Session (Acts 1971, p. 1256) and Act No. 83-551, H. 520 of the 1983 Regular Session (Acts 1983, p. 850) are repealed.

Section 6. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 8, 1995

Time: 5:43 P.M.

Act No. 95-173 S. 433 – Senator Roberts

AN ACT

Relating to Morgan County, to propose an amendment to the Constitution of Alabama of 1901, to authorize the Morgan County Commission to continue to levy a county-wide 4.3 mill and 1.5 mill ad valorem tax as originally authorized by the people on January 17, 1967, and scheduled to expire on September 30, 1995, for the benefit of all public schools in Morgan County.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

(a) In lieu of the ad valorem taxes otherwise authorized by Section 269 and Amendment 3 to the Constitution of Alabama of 1901, and enabling statutory provisions thereto, the Morgan County Commission may levy annually, commencing with the tax year beginning October 1, 1995, an ad valorem tax on all taxable property located in Morgan County, Alabama at a rate of 5.8 mill per dollar assessed value of the property, the proceeds of which shall be distributed to the Board of Education of Morgan County in proportions as the proceeds would be distributable if the taxes were levied under the authority of Section 269 and Amendment 3 and enabling statutory provisions relating thereto.

(b) The authority conferred by this constitutional amendment shall be self-executing in the event this amendment is duly adopted and ratified at the election required by the act which this amendment is proposed.

Section 2. An election upon the proposed shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the general election laws of this state. If this amendment is to be voted on as a local constitutional amendment under Amendment 555, an election upon the proposed amendment is ordered to be held on September 12, 1995, in Morgan County, Alabama.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Proposing an amendment of the Constitution of Alabama of 1901, relating to Morgan County, to authorize the Morgan County Commission to continue to levy a county-wide 4.3 mill and 1.5 mill ad valorem tax as originally authorized by the people on January 17, 1967, and scheduled to expire on September 30, 1995, for the benefit of all public schools in Morgan County.

Proposed by Act _____"

This description shall be followed by the following language:

"Yes ( ) No ( )."

CONSTITUTIONAL AMENDMENT

Passed the Senate May 30, 1995

Passed the House June 13, 1995

Act No. 95-174 S. 438 – Senator Roberts

AN ACT

Relating to Morgan County; to authorize the Morgan County Commission to continue to levy a four mill ad valorem tax originally authorized by the people on January 17, 1967, and scheduled to expire on September 30, 1995, for the benefit of the Hartselle city schools.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

(a) In lieu of the special district school tax of forty cents per one hundred dollars of assessed value which the Morgan County Commission is authorized to levy for the benefit of the public schools in the City of Hartselle, Alabama, the Morgan County Commission shall be authorized to levy on an annual basis, commencing with the tax year beginning October 1, 1995, an ad valorem tax on all taxable property located within the City of Hartselle, at a rate of four mills per dollar of assessed value of the taxable property, the proceeds of which shall be distributed to the Hartselle City Board of Education.

(b) The authority conferred by this constitutional amendment shall be self-executing in the event this amendment is duly adopted and ratified at the election required by the act by which this amendment is proposed.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the general election laws of this state. If this amendment is to be voted on as a local constitutional amendment under Amendment 555, an election upon the proposed amendment is ordered to be held on September 12, 1995, in Morgan County, Alabama.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the

election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Morgan County, proposing an amendment to the Constitution of Alabama of 1901, to authorize the Morgan County Commission to continue to levy a four mill ad valorem tax as originally authorized by the people on January 17, 1967, and scheduled to expire on September 30, 1995, for the benefit of the Hartselle city schools.

Proposed by Act _____"

This description shall be followed by the following language:

"Yes ( ) No ( )."

CONSTITUTIONAL AMENDMENT

Passed the Senate May 30, 1995

Passed the House June 13, 1995

Act No. 95-175 S. 440 – Senator Roberts

AN ACT

Relating to Morgan County; to authorize the Morgan County Commission to continue to levy a 3.6 mill ad valorem tax originally authorized by the people on January 17, 1967, and scheduled to expire on September 30, 1995, for the Decatur public schools.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

(a) In addition to all other ad valorem taxes which the Morgan County Commission is authorized by law to levy for the benefit of the public schools in the City of Decatur, Alabama, the Morgan County Commission shall be authorized to levy on an annual basis, commencing with the tax year beginning October 1, 1995, an ad valorem tax on all taxable property located within that portion of the City of Decatur which lies in Morgan County at a rate of 3.6 mills per dollar of assessed value of the taxable property, the proceeds of which shall be distributed to the Decatur City Board of Education.

(b) The authority conferred by this constitutional amendment shall be self-executing in the event this amendment is duly adopted and ratified at the election required by the act by which this amendment is proposed.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the general election laws of this state. If this amendment is to be voted on as a local constitutional amendment under Amendment 555, an election upon the proposed amendment is ordered to held on September 12, 1995, in Morgan City.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Morgan County, proposing an amendment to the Constitution of Alabama of 1901, to authorize the Morgan County Commission to continue to levy a 3.6 mill ad valorem tax as originally authorized by the people on January 17, 1967, and scheduled to expire on September 30, 1995, for the Decatur public schools.

Proposed by Act _____"

This description shall be followed by the following language:

"Yes ( ) No ( )."

CONSTITUTIONAL AMENDMENT

Passed the Senate May 30, 1995

Passed the House June 13, 1995

Act No. 95-176 S. 441 – Senator Roberts

AN ACT

Relating to Morgan County, to authorize the Morgan County Commission to continue to levy a four mill ad valorem tax originally authorized by the people on January 17, 1967 and scheduled to expire on September 30, 1995, for the benefit of the schools under the jurisdiction of the Morgan County Board of Education.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

(a) In addition to all other ad valorem taxes which the Morgan County Commission is authorized by law to levy for the benefit of

the public schools within the jurisdiction of the Morgan County Board of Education, the Morgan County Commission may levy on an annual basis, commencing with the tax year beginning October 1, 1995, an ad valorem tax on all taxable property in Morgan County located outside the corporate limits of the City of Decatur and the City of Hartselle, as those corporate limits exist on the first day of each ad valorem tax year, at a rate of four mills per dollar of assessed value of the taxable property, the proceeds of which shall be distributed to the Morgan County Board of Education.

(b) The authority conferred by this constitutional amendment shall be self-executing in the event this amendment is duly adopted and ratified at the election required by the act by which this amendment is proposed.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the general election laws of this state. If this amendment is to be voted on as a local constitutional amendment under Amendment 555, an election upon the proposed amendment is ordered to be held on September 12, 1995, in Morgan County, Alabama.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Proposing an amendment of the Constitution of Alabama of 1901, relating to Morgan County, to authorize the Morgan County Commission to continue to levy a four mill ad valorem tax as originally authorized by the people on January 17, 1967 and scheduled to expire on September 30, 1995, for the benefit of the schools under the jurisdiction of the Morgan County Board of Education.

Proposed by Act _____"

This description shall be followed by the following language:

"Yes ( ) No ( )."

CONSTITUTIONAL AMENDMENT

Passed the Senate May 30, 1995

Passed the House June 13, 1995

Act No. 95-177

S.J.R. 82 – Senators Windom, Mitchem, Freeman, Bailey, Butler, Hill, Davidson, Steele,

Dixon, Lindsey, Smith, Adams, Lipscomb, Escott-Russell, Clay, Armistead, Waggoner, Figures, Amari, Little, Denton, Dial, Mitchell, Roberts, Myers, Ghee, Langford, Hale, Biddle, Poole, Smitherman, Barron, McClain, and Sanders

SENATE JOINT RESOLUTION

URGING CONGRESS TO REPEAL THE JET FUEL TAX.

WHEREAS, the airline industry has been struggling through the worst financial crisis in its history, losing over $13 billion since 1990, and being forced to eliminate over 125,000 jobs; and

WHEREAS, the travel and tourism industry has also been adversely affected by the financial woes of the industry; and

WHEREAS, unless H.R. 752 or S. 304 are enacted, a new jet fuel tax of 4.3 cents per gallon will take effect October 1, 1995, further crippling the industry and resulting in further tourism decline, decreased state and local tax revenues, and fewer jobs created; and

WHEREAS, airlines, aviation labor organizations, airports, aircraft manufacturers, domestic jet fuel suppliers, and travel and business interests have merged in unprecedented opposition to the tax; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby strongly urge the United States Congress to support the repeal of the October 1, 1995, aviation fuel tax by supporting H.R. 752 and S. 304.

BE IT FURTHER RESOLVED, That each member of the Alabama Delegation in Congress be sent a copy of this resolution so that they may be informed of our earnest concern regarding this significant matter.

Approved June 15, 1995

Time: 9:30 A.M.

Act No. 95-178 S.J.R. 84 – Senator Amari

SENATE JOINT RESOLUTION

COMMENDING SYLVIA M. STEWART ON HER MERITORIOUS CAREER WITH THE STATE OF ALABAMA.

WHEREAS, the October 1994 retirement of Sylvia M. Stewart of Montgomery, Alabama, as secretary to Senators Chip Bailey, Roger Bedford, Jack Floyd, Mac Parsons, and to Senator John Amari since 1984, is an occasion deserving of special recognition of her outstanding career as an accomplished and dedicated member of the Senate staff since 1981; and

WHEREAS, Sylvia Stewart, throughout her tenure, was greatly admired as a loyal and dependable employee and highly regarded for the responsible and efficient manner in which she undertook the many duties and responsibilities of her position, including that as committee clerk on numerous committee assignments; and

WHEREAS, in retirement, we wish Mrs. Stewart health, happiness and more time to share with her husband, Dr. Frederick Stewart, their six children, and their twelve beautiful grandchildren; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That on the occasion of her retirement, in deep and sincere gratitude for outstanding service to the Alabama Legislature and the State of Alabama, highest commendation and heartiest congratulations are hereby extended to Sylvia M. Stewart of Montgomery, Alabama.

BE IT FURTHER RESOLVED, That a copy of this resolution be prepared and delivered to our colleague, John Amari, with instructions to seek out Sylvia M. Stewart at whatever golf course, country club, or place of relaxation she may be located and to express this body's deep admiration and regard upon presentation of this resolution.

Approved June 15, 1995

Time: 9:31 A.M.

Act No. 95-179 S.J.R. 85 – Senator Adams

SENATE JOINT RESOLUTION

COMMENDING LUCILLE WOODHAM FOLEY FOR OUTSTANDING ACCOMPLISHMENT.

WHEREAS, it is with great pride and pleasure that the Alabama Legislature honors Mrs. Lucille Woodham Foley of Opp, Alabama, who has recently been inducted into the Opp and Covington County Area Chamber of Commerce Hall of Fame; and

WHEREAS, the daughter of Charles Nelson and Ruby Butler Woodham, and a native of Covington County, Mrs. Foley retired in

1990 following 46 years of service with First National Bank of Opp where she has worked in numerous capacities including assistant cashier and senior vice-president; and

WHEREAS, Lucille Foley has served as a charter member and president of the Opp Business and Professional Women's Club, chair of various committees for fundraising projects of Opp, and has a history of distinctive service with numerous organizations including the Opp Historical Society, Alabama Bankers Association, National Association of Bank Women, and the LBW Foundation, to name but a few; and

WHEREAS, Mrs. Foley furthermore served as the 1993-1994 president of the Opp and Covington County Area Chamber of Commerce, proving herself to be an enthusiastic and able leader; and

WHEREAS, a member of the First Baptist Church of Opp where she has selflessly served in many capacities from nursery worker to trustee, Lucille is the dedicated wife of Robert W. Foley, and they are the proud parents of one daughter, Laurie Nell Foley; and

WHEREAS, Lucille Foley has earned widespread respect and admiration for her generous spirit, devoted service, and concern for her fellowman, and she is well deserving of this special recognition; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and warmest congratulations to Mrs. Lucille Woodham Foley of Opp, Alabama, upon her induction into the Opp and Covington County Area Chamber of Commerce Hall of Fame, and for her immeasurable contributions to the State of Alabama, and do furthermore direct that a copy of this resolution be provided as evidence of our pride and esteem.

Approved June 15, 1995

Time: 9:32 A.M.

Act No. 95-180 S.J.R. 86 – Senator Adams

SENATE JOINT RESOLUTION

COMMENDING DOROTHY RAINER SELLARS OF OPP, ALABAMA, FOR DISTINGUISHED ACCOMPLISHMENTS.

WHEREAS, it is with great pride and utmost pleasure that the Alabama Legislature honors Mrs. Dorothy Rainer Sellars of Opp,

Alabama, who was inducted into the Opp and Covington County Area Chamber of Commerce Hall of Fame; and

WHEREAS, the daughter of Robert S. and Mattie Lea Rainer, and a native of Opp, Mrs. Sellars attended Opp High School, Columbia University, and Huntingdon College where she excelled in academics, was actively involved in student life, and concentrated on her love and enjoyment of dance; and

WHEREAS, in 1953, Dorothy Sellars began her own dance studio, The Dorothy Sellars School of Dance, and through her expertise and leadership, the school has earned national recognition from Dance Magazine, and she has published numerous articles and a book, The Dance Teacher Today; and

WHEREAS, Mrs. Sellars has furthermore selflessly dedicated her efforts to various organizations serving as a member and vice-chairman of the Alabama State Council for the Arts, president of the Huntingdon College National Alumni Board, and a member of the Huntingdon Board of Trustees; and she has furthermore been honored for her exemplary leadership as the recipient of the Loyalty Award and the Achievement Award of Huntingdon College; and

WHEREAS, Dorothy is the devoted wife of William "Doc" Sellars, and they are the proud parents of two sons, Bill and Lee; and

WHEREAS, Dorothy Sellars has earned widespread respect and admiration for her integrity, leadership, and dedication to her students, and is well deserving of this special recognition; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and warmest congratulations to **Mrs. Dorothy Rainer Sellars of Opp, Alabama, who was inducted** into the Opp and Covington County Chamber of Commerce Hall of Fame for her immeasurable contributions, and do furthermore direct that a copy of this resolution be provided as evidence of our sincerest pride and esteem.

Approved June 15, 1995

Time: 9:33 A. M.

Act No. 95-181 S.J.R. 87 – Senator Denton

SENATE JOINT RESOLUTION

COMMENDING ALABAMA PUBLIC TELEVISION FOR FORTY YEARS OF EXEMPLARY SERVICE TO THE RESIDENTS OF ALABAMA.

WHEREAS, the Alabama Legislature created the Alabama Educational Television Commission in 1953 for the purpose of making the benefits of educational television available to and promoting its use by inhabitants of Alabama; and

WHEREAS, the implementation of a state educational television network in Alabama was the first such network in the United States; and

WHEREAS, the first two stations in the educational television network were signed on the air in 1955, and eventually grew to a nine station network by 1970; and

WHEREAS, Alabama Public Television marks its 40th year of service in 1995, broadcasting 123 hours of programming each week providing learning opportunities to Alabamians of all ages; and

WHEREAS, Alabama Public Television brings a wide variety of national, international, and Alabama-produced programs to the schools and homes of this state; and

WHEREAS, Alabama Public Television broadcasts 18 hours per week of K-12 instructional programming for Alabama teachers to use in classrooms and 16 hours per week of college and adult educational programming for Alabama adults; and

WHEREAS, Alabama Public Television provides 35.5 hours per week of award-winning, nonviolent, commercial-free children's programming serving a combined average daily audience of 181,000 Alabama children; and

WHEREAS, the viewership of Alabama Public Television continues to grow to its current weekly cumulative audience of 28 percent of all Alabama households; and

WHEREAS, the Alabama Educational Television Commission has diversified its funding base as of fiscal year 1995 to 53 percent state, 30 percent private, 14 percent federal, and three percent other funding to address this important educational mission on behalf of the people of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Legislature of Alabama commends the Alabama Educational Television Commission and its current members, Jacob A. Walker, Jr., Thomas Jackson, Dr. John H. Mosley, Charles F. Boman, Dr. Dannetta K. Thornton Owens, Ann W. Delchamps, Bebe Williams, and the Alabama Public Television staff for 40 years of exemplary service to the people of Alabama in providing educational resources to Alabama children, K-12 teachers, and adult students,

as well as providing news, information, and general programming for all Alabamians.

BE IT FURTHER RESOLVED, That the Legislature expresses its appreciation to the many volunteers throughout Alabama who helped raise private funds and carry out the programs and services of Alabama Public Television, particularly board members, Ann W. Delchamps, Foster McDonald, Joseph B. Mays, Jr., Jacob A. Walker, Jr., Thomas Jackson, Bebe Williams, Lovell Vickers, J. Stanley Mackin, Stephen Allgood, Dr. Dannetta K. Thornton Owens, Dr. John H. Mosley, and Charles F. Boman, who worked to increase private support for Alabama Public Television.

Approved June 15, 1995

Time: 9:34 A.M.

Act No. 95-182 S.J.R. 89 – Senator Waggoner

SENATE JOINT RESOLUTION

COMMENDING THE BIRMINGHAM SOUTHERN BASKETBALL TEAM FOR OUTSTANDING ACCOMPLISHMENT.

WHEREAS, it is with great pride and utmost pleasure that the Alabama Legislature honors the Birmingham Southern Basketball Team for tremendous achievement; and

WHEREAS, under the guidance of Head Coach Duane Reboul, the Birmingham Southern Basketball Team soundly defeated their opponents to prevail victorious as the champions of the NAIA Basketball Championship; and

WHEREAS, through many hours of hard work, dedication, and tenacity, the Birmingham Southern Basketball Team had the longest winning streak in the nation, and finished the season with an impressive record of 35 wins and only 2 losses; and

WHEREAS, the members of the Birmingham Southern Basketball Team are well deserving of this special recognition, and they are: Chris Armstrong, Obra Carter, James Cason, Nigel Koates, Bo Coln, Tommy Dalley, Dwayne Elliot, Paul Fleming, Todd Larsen, Jay Mitchell, Tom Runnion, Mike Sschwallie, Eddie Walter, Damon Wilcox, and Will Worrell; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and warmest congratulations to the coaches and members of the Birmingham Southern Basketball Team, the winners of the NAIA Basketball Championship, and do

furthermore direct that a copy of this resolution be provided as evidence of our pride and esteem, and for appropriate presentation and display at Birmingham Southern.

Approved June 15, 1995

Time: 9:35 A.M.

Act No. 95-183 H.J.R. 219 – Rep. Box

HOUSE JOINT RESOLUTION

COMMENDING PATRICIA HICKS OF SATSUMA, ALABAMA, FOR OUTSTANDING ACCOMPLISHMENTS.

WHEREAS, it is with utmost pride and pleasure that the Alabama Legislature honors Patricia Hicks, a former teacher and coach at Satsuma High School, for tremendous service; and

WHEREAS, Pat Hicks, a native of Satsuma, Alabama, and former student at Satsuma High School, retired June, 1994, ending her 31-year career in education with an astonishing 504 wins as Head Coach of the Girls Softball Team, and an equally impressive career as Head Coach of Satsuma's Girls Volleyball Team; and

WHEREAS, among numerous other notable accomplishments, Pat has twice served as President of the Mobile County Coaches Association, and has been a member of the Mobile County School Board Athletic Committee, Alabama Education Association, National Education Association, Mobile County Education Association, and the American Alliance for Health, Physical Education, and Recreation; and she has furthermore been recognized as the Softball Coach of the Year, Volleyball Coach of the Year, and as Satsuma High School Teacher of the Year; and

WHEREAS, under the leadership and guidance of Pat Hicks, the Satsuma High School Girls Softball Team participated in the state play-offs every year except one, and were the 6A State Champions in 1987, 1988, and 1990, and runners-up in 1994; and

WHEREAS, Pat Hicks is a worthy role model and mentor for the countless young people she has encouraged and inspired, and is indeed well deserving of this special recognition; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and warmest congratulations to Pat Hicks, former teacher and coach of Satsuma High School, for her outstanding contributions and accomplishments, and do

furthermore direct that a copy of this resolution be provided as evidence of our appreciation and warmest personal regard.

Approved June 15, 1995

Time: 9:40 A.M.

Act No. 95-184 H.J.R. 220 – Rep. McKee

HOUSE JOINT RESOLUTION

COMMENDING EDWARD P. DOMBROWSKI FOR OUTSTANDING SERVICE TO THE ALABAMA LEGISLATURE.

WHEREAS, it is with highest personal regard that the Alabama Legislature notes the retirement, May 26, 1995, of Edward P. Dombrowski, a longtime and highly respected member of the Alabama House of Representatives security staff, and a valued friend; and

WHEREAS, for more than 14 years Ed Dombrowski has been a familiar and welcoming sight at his post by chamber doors leading to the Alabama House of Representatives during legislative sessions, extending to all a warm smile and a friendly greeting; and

WHEREAS, a veteran of the United States Air Force, and a highly decorated hero of World War II, Ed Dombrowski, following retirement as a manufacturer's representative in the ladies' clothing industry, joined the legislative staff as a member of Senate security in 1980, transferring shortly thereafter to House security in 1981; and

WHEREAS, over his dedicated tenure of service, Ed Dombrowski has become a treasured member of our legislative family, and he will be greatly missed by all; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in deep and sincere gratitude for outstanding service to the Alabama Legislature and the State of Alabama, we hereby most highly commend Edward P. Dombrowski, whom we hold in warmest personal regard, and for whom a copy of this resolution shall be provided with sincere best wishes for every future happiness and success.

Approved June 15, 1995

Time: 9:36 A.M.

Act No. 95-185 H.J.R. 222 – Rep. Rogers (J)

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF GLORIA FINEBAUM OF BIRMINGHAM, ALABAMA.

WHEREAS, the Alabama Legislature is deeply saddened by the death of Gloria Finebaum of Birmingham, Alabama, on December 13, 1994, at the age of 71 years; and

WHEREAS, Gloria Finebaum, born July 9, 1923, in New York, New York, was the daughter of the late Paul and Mollie Filderman, and the wife of the late Dr. Benjamin T. Finebaum; and

WHEREAS, a highly regarded member of the Birmingham community, Mrs. Finebaum was a faithful and devoted member of Hadassah and Baron Hirsch Congregation; she was also a long-time and supportive member of B'nai B'rith, and served as a BBG advisor for more than 15 years to Bluff City BBG, renamed Dr. Ben T. Finebaum BBG following her husband's death; and

WHEREAS, the lamentable death of Gloria Finebaum has indeed left a deep void the life of the Birmingham community, and in the hearts of her beloved family and many, many friends; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as her death is mourned, thanks are given for the life and service of Gloria Finebaum of Birmingham, Alabama, and deepest sympathy is hereby extended to her son, Paul Finebaum; daughter, Pamela Gold; and grandson; and to other family members, for whom a copy of this resolution of sincere condolence shall be provided.

Approved June 15, 1995

Time: 9:37 A.M.

Act No. 95-186 H.J.R. 231 – Rep. Hammett

HOUSE JOINT RESOLUTION

INVITING DANIEL S. GOLDIN, ADMINISTRATOR, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION TO ADDRESS A JOINT SESSION OF THE ALABAMA LEGISLATURE.

WHEREAS, Mr. Daniel S. Goldin has a long and distinguished career with the National Aeronautics and Space Administration; and

WHEREAS, under his dynamic leadership the nation's aeronautics and space agency is "reinventing" itself as it prepares for bold new endeavors in the 21st Century; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most respectfully request Mr. Daniel S. Goldin to address a joint session of the Alabama Legislature on Thursday, June 15, 1995, at 10:30 a.m. whereupon the Alabama Senate and the Alabama House of Representatives will assemble in joint session in the House Chamber to hear his remarks.

BE IT FURTHER RESOLVED, That Mr. Goldin be advised by copy of this resolution of our invitation to address the Legislature and of our hopeful anticipation of his acceptance.

Approved June 15, 1995

Time: 9:38 A.M.

Act No. 95-187

H. 438 – Reps. Hooper, Carter, Clark (J), Turner, Jorgensen, Dukes, Sanderford, Graham, Carns, Townsend, Hinshaw, Papucci, Haney, Gipson, Robinson, Melton, Laird, Burke, McKee, Guin, Sims, Seibenhener, Moore, McMillan, Parker (T), Newton (C), Venable, Hammett, Flowers, White, Box, Maull, Boyd, Crigler, Baker, Wren, Hamilton, Carothers, Johnson (E), Clouse, Houston

AN ACT

To provide a credit against Alabama income tax liability with respect to income generated by or arising out of a project undertaken by certain new businesses to be located in the state and certain expansions of certain existing businesses; to provide that the credit against the Alabama income tax shall be five percent of capital costs, as defined in the act, for each of 20 years; to provide that each "investing company," as defined in the act, with respect to a project, or its shareholders, partners, members, owners, or beneficiaries, shall be entitled to receive the credit upon the filing by the investing company of a statement of intent to claim the credit with the Department of Revenue, subject to the requirements of the act with respect to minimum capital costs and employment; to specify the minimum capital

expenditure and employment criteria required to receive the credit against Alabama income tax liability; to provide that the capital credit authorized by this act shall not exceed the capital costs of the project; to amend Section 41-10-44.8 of the Code of Alabama 1975, to provide that the State Industrial Development Authority shall not grant any tax credit or other incentives pursuant to Article 2A of Chapter 10 of Title 41 except with respect to projects approved by the Authority prior to January 16, 1995; to provide that each entity approved by the State Industrial Development Authority prior to January 16, 1995, may elect to receive the tax credit provided for in this act in lieu of any tax credits or other incentives provided for in Article 2A of Chapter 10 of Title 41; to amend Section 4 of Act No. 93-851 adopted at the 1993 First Special Session of the Legislature of Alabama to delete the requirement of the adoption of a joint resolution of the Legislature so as to remove any ambiguity that such provision would eliminate tax or other incentives previously granted by the State Industrial Development Authority; and to provide that the capital credit authorized by this act shall not be available for new projects after December 31, 1998, unless the Legislature, by joint resolution, votes to continue or reinstate the availability of the capital credit for such new projects.

Be It Enacted by the Legislature of Alabama:

Section 1. The following terms shall have the following meanings, respectively, when used in this act unless the context clearly requires otherwise:

(1) BASE WAGE REQUIREMENT. Either an average hourly wage of not less than eight dollars ($8) per hour or an average total compensation of not less than ten dollars ($10) per hour, including benefits. Notwithstanding the foregoing, wages of direct processors of agriculture food products shall be subject to the local labor market.

(2) CAPITAL COSTS. All costs and expenses incurred by one or more investing companies in connection with the acquisition, construction, installation and equipping of a qualifying project during the period commencing with the date on which such acquisition, construction, installation and equipping commences and ending on the date on which the qualifying project is placed in service, including, without limitation all of the following:

a. The costs of acquiring, constructing, installing, equipping and financing a qualifying project, including all obligations incurred for labor and to contractors, subcontractors, builders, and materialmen.

b. The costs of acquiring land or rights in land and any cost incidental thereto, including recording fees.

c. The costs of contract bonds and of insurance of all kinds that may be required or necessary during the acquisition, construction or installation of a qualifying project.

d. The costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, environmental mitigation and supervision

of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction and installation of a qualifying project.

e. The costs associated with installation of fixtures and equipment; surveys, including archeological and environmental surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, paving and provisions for drainage, storm water retention, installation of utilities, including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the property.

f. All other costs of a nature comparable to those described, including, without limitation, all project costs which are required to be capitalized for federal income tax purposes pursuant to 26 U.S.C. § 263A.

g. costs otherwise defined as capital costs that are incurred by the investing company where the investing company is the lessee under a lease that has a term of not less than five years, is firm and noncancellable, and is characterized as a capital lease for federal income tax purposes; provided, that if the project is a headquarters facility, the lease may be characterized as an operating lease for federal income tax purposes in which event capital costs shall include the net present value of the payments made by the investing company under the lease computed using the applicable federal rate for the month in which the qualifying project is placed in service and for the term most closely approximating the term of the lease.

Capital costs shall not include property previously owned or leased by the investing company or a related party unless such property was physically located outside the state for a period of at least one year prior to the date on which the qualifying project was placed in service.

(3) CAPITAL CREDIT. An annual amount equal to five percent of the capital costs of the qualifying project, such amount to be credited or allowed in accordance with Section 5 hereof and other provisions of law, against the state income tax liability generated by or arising out of the qualifying project in each of the 20 years commencing with the year during which the qualifying project is placed in service and continuing for 19 consecutive years thereafter.

(4) DEPARTMENT. The Alabama Department of Revenue.

(5) HEADQUARTERS FACILITY. A facility which will serve as the national, regional or state headquarters for an investing

company that conducts significant business operations outside the state and will serve as the principal office of the principal operating officer of the investing company.

(6) INDUSTRIAL, WAREHOUSING OR RESEARCH ACTIVITY. Any trade or business described in 1987 Standard Industrial Classification Major Groups 20 to 39, inclusive, 50 and 51, Industrial Group Number 737, and Industry Numbers 8731, 8733 and 8734, as set forth in the Standard Industrial Classification Manual published by the United States Government Office of Management and Budget, and includes such trades and businesses as may be hereafter reclassified in any subsequent publication of the Standard Industrial Classification Manual or other Industry Classification System developed in conjunction with the United States Department of Commerce, or any process or treatment facility which recycles, reclaims, or converts materials, which include solids, liquids, or gases, to a reusable product.

(7) INVESTING COMPANY. Any corporation, partnership, limited liability company, proprietorship, trust or other business entity, regardless of form, making a qualified investment.

(8) NEW EMPLOYEES. Those persons who have not been previously employed at the site on which the qualifying project is or will be located or by an investing company or companies in the state; will be employed full-time at the qualifying project; and will be subject to the personal income tax imposed by Section 40-18-2 of the Code of Alabama 1975, upon commencement of employment at the qualifying project.

(9) PROJECT. Any land, building or other improvement, and all real and personal properties deemed necessary or useful in connection therewith, whether or not previously in existence, located or to be located in the state.

(10) QUALIFYING INVESTMENT. The undertaking by one or more investing companies of a qualifying project.

(11) QUALIFYING PROJECT. A project to be sponsored or undertaken by one or more investing companies meeting any one of the following requirements:

(a) A project the capital costs of which are not less than $2,000,000, and at which the predominant trade or business activity conducted will constitute industrial, warehousing or research activity.

(b) A small business addition the capital costs of which are not less than $1,000,000, and at which the predominant trade or business activity conducted will constitute industrial, warehousing or research activity.

(c) A headquarters facility the capital costs of which are not less than $2,000,000.

(12) RELATED PARTY. A person or entity that bears a relationship to an investing company described in Section 267 of the Internal Revenue Code of 1986, as amended.

(13) SMALL BUSINESS ADDITION. Any land, building or other improvement, and all real and personal properties deemed necessary or useful in connection therewith, whether or not previously in existence, to be used as a part of any existing facility of a business located in the state that, prior to the date on which the addition is placed in service, had 100 or fewer full-time employees.

(14) TAX YEAR. The applicable taxable year as the term is defined in Section 40-18-1(11) of the Code of Alabama 1975.

(15) 1993 ACT. Act No. 93-851, H. 27 and Act No. 93-852, H. 83 adopted at the 1993 First Special Session of the Legislature of Alabama, as amended by Act No. 94-370, S. 559 adopted at the 1994 Regular Session of the Legislature of Alabama.

Section 2. At anytime prior to the date on which a qualifying project is placed in service, an investing company may file with the department a written statement of intent to claim the capital credit provided in this act. Such filing by an investing company shall constitute a filing on behalf of the shareholders, partners, members, owners or beneficiaries of the investing company entitled to the capital credit in accordance with such 5(b) hereof. Such statement shall contain a description of the qualifying project; the date on which the acquisition, construction, installation or equipping of the qualifying project was commenced or is expected to commence; the actual or if not known the estimated capital costs of the qualifying project; the number of new employees to be employed at the qualifying project; the name of each investing company, or the name or names of its shareholders, partners, members, owners or beneficiaries to become entitled to the capital credit; and any other information required by the department.

Section 3. Subject to compliance with Section 4 of this act, each investing company shall, upon filing of the statement required by Section 2 and upon the making of qualified investments and upon compliance with Section 4(a), be entitled to the capital credit, such credit to be allocated and available in accordance with Section 5(b). The department shall enter into written agreements with an investing company or companies specifying the method by which income generated by or arising out of the project will be determined, and with respect to qualifying projects undertaken by partnerships, limited liability companies, or other

joint ventures, the allocation and treatment of the capital credit provided pursuant to this act.

Section 4. (a) It shall be a condition to the receipt of a capital credit that either of the following occur:

(1) Not less than 20 jobs for new employees at a qualifying project other than a small business addition be provided commencing with the date which is not later than one year after the qualifying project is placed in service and continuing each year thereafter during which the capital credit is available with respect to the qualifying project and that the wages for each new employee at the qualifying project be not less than the base wage requirement during each year during which all or any part of the capital credit is available with respect to the qualifying project.

(2) Not less than 15 jobs for new employees at the qualifying project which is a small business addition be provided commencing with the date which is not later than one year after the qualifying project is placed in service and continuing each year thereafter during which the capital credit is available with respect to the qualifying project and that the wages for each new employee at the qualifying project be not less than the base wage requirement during each year during which all or any part of the capital credit is available with respect to the qualifying project.

If an investing company closes an existing facility in this state and with two years following the closing places a qualifying project in service, only the number of new employees in excess of the number of employees who worked at the existing facility at the time of the closure shall be deemed to be new employees for purposes of this section.

(b) The Legislature recognizes that one or more entities may enter into a joint venture in the form of a limited liability company, partnership, or other form of business entity in connection with a qualifying project. It is the intent of this act that the requirements of this act respecting minimum capital costs and employment be applied to the qualifying project and that the capital credit be available and granted to those entities liable for or against which the state income tax is allocated or assessed with respect to the income generated by or arising out of the qualifying project. It shall not be a requirement of this act that the entity employing any new employees be the same entity entitled to receive the capital credit so long as the requirements of capital costs and new employees are implemented and maintained with respect to the qualifying project.

(c) A change of ownership or assignment of interest in any qualifying project shall not qualify the qualifying project or any

taxpayer to receive any additional capital credits, and the purchaser, assignee, or successor of the qualifying project or interests therein shall be entitled to the capital credit upon the same conditions and for the same period as the investing company or companies originally entitled to the capital credit.

(d) The Legislature recognizes that while certain periods specified in this act with respect to the capital credit are measured by calendar years it will be necessary for the capital credit to be applied with respect to the tax years of the recipients of the capital credit. Accordingly, the department is hereby authorized to adopt regulations to provide that the capital credit may be allocated to the tax years of the recipient of the capital credit, including the method of determining the pro rata amount of capital credit, if any, available where the tax year of the recipient of the capital credit will end subsequent to the end of any calendar year period specified in this act.

Section 5. (a) The Legislature recognizes that a substantial number of businesses are organized as limited liability companies, partnerships, and other types of business entities and that certain business entities, organized as corporations, elect to be treated as "S" corporations under federal and state tax laws, and that it is essential that the capital credit amount shall be available on a pass-through basis in the manner hereinafter provided.

(b) Each investing company, or its shareholders, partners, members, owners, or beneficiaries shall be entitled to the capital credit for each tax year of an investing company with respect to which a capital credit is provided pursuant to this act. The capital credit shall be allowed as follows:

(1) The owner of an investing company which is a proprietorship shall receive a credit against the individual income tax levied by Section 40-18-5 of the Code of Alabama 1975, that otherwise would be owed to the state in any year by the owner with respect to the income of the investing company generated by or arises out of the qualifying project;

(2) An investing company which is an Alabama C corporation as defined in Section 40-18-160, or which is an Alabama S corporation and which is subject to taxation under Section 40-18-174, or Section 40-18-175, shall receive a credit against the corporate income tax levied by Section 40-18-31 or by Section 40-18-174 or Section 40-18-175, that otherwise would be owed to the state in any year by the investing company with respect to the income generated by or arising out of the qualifying project;

(3) The shareholders of an investing company which is an Alabama S corporation as defined in Section 40-18-160, and whose

taxable income is subject to determination under Section 40-18-161, each shall receive a credit against the individual income tax levied by Sections 40-18-5 that otherwise would be owed to the state in any year by each shareholder of the investing company with respect to income of the investing company generated by or arising out of the qualifying project.

(4) The partners, members, or owners of an investing company, the income of which is subject to taxation under Section 40-18-24, each shall receive a credit against the corporate income tax levied by Section 40-18-31, or against the individual income tax levied by Section 40-18-5, whichever is applicable to each such partner, member, or owner that otherwise would be owed to the state in any year by each partner, member, or owner of the investing company with respect to income of the investing company generated by or arising out of the qualifying project.

(5) An investing company which is a trust or estate having income subject to taxation under Section 40-18-25(c) shall receive a credit against the income tax levied by Section 40-18-5 that otherwise would be owed to the state in any year by the investing company on the income generated by or arising out of the qualifying project.

(6) The beneficiaries of an investing company which is a trust or estate the income of which is subject to taxation under Section 40-18-25(d) each shall receive a credit against the corporate income tax levied by Section 40-18-31, or against the individual income tax levied by Section 40-18-5, whichever is applicable to each such beneficiary, that otherwise would be owed to the state in any year by each beneficiary of the investing company with respect to income of the investing company generated by or arising out of the qualifying project.

(7) A shareholder, partner, member, owner or beneficiary which is eligible to receive a credit under subdivision (3), (4) or (6) of this Section 5(b) and which is an Alabama S corporation, or which has income which is subject to taxation under Section 40-18-24 or Section 40-18-25(d), solely for purposes of the application of this Section 5(b), shall be treated as though the shareholder, partner, member, owner, or beneficiary were also an investing company.

(8) The capital credit allowed under this Section 5(b) for any tax year of an investing company shall not exceed the aggregate amount which otherwise would be due from the investing company, its shareholders, partners, members, owners, or beneficiaries to the state in tax with respect to the income of the investing company generated by or arising out of the qualifying project, determined

after the application of all other deductions, losses, or credits permitted under Titles 40 and 41 of the Code of Alabama 1975, for the taxable year, and determined by applying the maximum rate applicable to individuals under Section 40-18-5, or the rate applicable to corporations under Section 40-18-31, as the case may be.

(9) In no event may any amount described in this Section 5(b) be carried forward or back by any investing company, shareholders, partners, members, owners, or beneficiaries with respect to a prior or subsequent year.

Section 6. The capital credit shall be reduced or eliminated with respect to a qualifying project at the time the sum of all capital credits received or allowed with respect to a qualifying project equals 100 percent of the capital costs of such qualifying project, all to the end that the aggregate amount of capital credits shall not exceed 100 percent of the capital costs of the qualifying project.

Section 7. The department shall report annually to the Legislature and the public as to qualifying projects with respect to which capital credits are claimed during the year. The report shall be due on the fifth legislative day of each regular session and shall state the number of qualifying projects, the capital costs of each qualifying project and the total amount of capital credits claimed during the year.

Section 8. The department shall adopt regulations to carry out the provisions of this act. The department shall audit each investing company periodically to monitor compliance by the investing company with the provisions hereof which are conditions to the continued availability of capital credits.

Section 9. At the time of filing any tax return with the department in which any capital credit is claimed under this act, the chief executive officer, the chief financial officer, or the person signing the tax return on behalf of the investing company shall file with the department an affidavit stating that the investing company was, throughout the period for which a capital credit is claimed, in compliance with this act which are conditions to the qualification for and the continued availability of the capital credit herein authorized. The affidavit shall certify that the sum of all capital credits therefore received or allowed, when added to the capital credit claimed in the return, does not exceed the capital costs of the qualifying project.

Section 10. This act shall supersede the provisions of the 1993 Act pertaining to the income tax credits and the job development fee provided for in the 1993 Act except with respect to projects approved by the State Industrial Development Authority prior

to January 16, 1995. Upon the passage of this act, the State Industrial Development Authority shall not grant tax credits or job development fees pursuant to Section 41-10-44.8 of the Code of Alabama 1975, except with respect to entities with respect to which a resolution was adopted by the State Industrial Development Authority prior to January 16, 1995. The State Industrial Development Authority shall continue to have full power to implement the 1993 Act with respect to entities and projects approved prior to January 16, 1995, and all incentives shall remain in effect and may be fully implemented by the State Industrial Development Authority. Nothing contained in this Section shall limit any other power or authority of the State Industrial Development Authority heretofore conferred upon it, and the Authority shall possess all power and authority heretofore conferred upon it by law other than those enumerated in this Section. Each agreement or action on the part of the State Industrial Development Authority intended to constitute an inducement or official action on the part of the Authority for purposes of Section 1.150-2 of the Regulations under the Internal Revenue Code of 1986, as amended, shall remain in full force and effect.

Section 11. Each business entity and each project for each business entity with respect to which the State Industrial Development Authority adopted, prior to January 16, 1995, a resolution accepting a project for such entity may, at any time prior to December 31, 1996, file with the department a written election to receive the capital credit granted by this act, and upon the filing, each entity shall thereupon become entitled to the capital credit provided for in this act. Each entity shall, however, upon the filing of the election, be deemed to have waived and relinquished all tax future credits, job development fees, or other incentives provided for in the 1993 Act, and the amount of any tax credits, job development fees, or other incentives actually received by the entity pursuant to the 1993 Act, as well as the period during which the entity was entitled to receive any incentives under the 1993 Act, shall be taken into account for all purposes of this act, specifically including, without limitation, the period during which the capital credit is available and the limitation on the total amount of capital credits provided in Section 6.

Section 12. Section 41-10-44.8 of the Code of Alabama 1975, is amended to read as follows:

"§41-10-44.8

"(a) Upon the issuance by the authority of its project obligations for the purpose of financing a project for an approved company with

respect to which the authority adopted an resolution accepting the project prior to January 16, 1995, the approved company:

"(1) Shall receive a credit against the corporate income tax levied by Section 40-18-31 that otherwise would be owed to the state in any year by the approved company on its income generated by or arising out of the project, such credit not to exceed the lesser of (i) the amount due in tax, or (ii) the amount paid by the approved company pursuant to a financing agreement in the year for which the tax is due, corresponding to debt service on the project obligations; and

"(2) may elect to withhold and retain the aggregate job development fees described in paragraph (b) below, but only to the extent that debt service payments under the financing agreement(s) exceed the income tax credit permitted in (1) above. "The incentives described in (1) and (2) above shall be available to an approved company whose project is financed by the authority's project obligations for a period commencing on the date of issuance of such project obligations and, subject to the provisions of paragraph (c) below, ending on the first to occur of the following: (i) the termination of the financing agreement(s) entered into with respect to such project obligations; (ii) the maturity or earlier redemption or payment of the project obligations; or (iii) 25 years from the date the project is first placed in service. Immediately upon issuing any project obligations, the authority shall provide to the department the name of the approved company for whose benefit such project obligations were issued and sufficient information to determine the duration of the corporate income tax credit and the job development fees described in (1) and (2) above, respectively.

"(b) As provided in subdivision (a)(2) above, an approved company may require, as a condition of employment, that each person employed by the approved company at the project financed by the authority's project obligations agree to permit the approved company to deduct and withhold a job development fee not to exceed five percent from the gross wages paid to such employee by the approved company. Job development fees shall not be collected from persons employed by an approved company prior to the entry by such approved company into an agreement with the authority for financing of a project. If an approved company elects to collect a job development fee, it shall deduct the fee from the paycheck of each new employee and shall make its payroll books and records available for inspection by the authority or its designee at such reasonable times as the authority may request. Each approved company collecting a job development fee shall be required to file with the authority such information and documentation respecting

the imposition and collection of such fee as the authority may require. Each approved company collecting a job development fee shall be permitted a credit against the withholding tax liability provided in Section 40-18-76 otherwise owed to the state, such credit not to exceed the lesser of (i) the amount of such tax, or (ii) the aggregate job development fees withheld.

"Each employee who has been assessed a job development fee, as provided above, shall be entitled to a credit against his or her state income taxes in an amount equal to 100 percent of the job development fee withheld from the employee's wages during the calendar year. Each employee who has been assessed a job development fee as provided above shall be entitled to a credit against his or her withholding tax liability calculated pursuant to Section 40-18-71 in an amount equal to 100 percent of the job development fee withheld from the employee's wages during the calendar year.

"(c) If an approved company fails to achieve the level of capital investment or employment anticipated at the time the authority agreed to finance its project, the department may, after notice and hearing, reduce or suspend all or any part of such incentives until such time as the anticipated capital investment and employment levels are met; provided, however, that such incentives shall not be suspended retroactively. The authority may provide in the financing agreement(s) entered into in connection with a project for the levels of capital investment and employment expected to be achieved and for the time period(s) in which such levels are to be achieved.

"(d) The board of directors of the authority may, upon the written request of any local industrial development board, industrial development association, chamber of commerce or other similar local entity, solicit and request from any person, corporation, foundation or other legal entity any gift, grant, contribution, loan or other kind of aid or assistance, whether in the form of property, services or monies, which the board of directors deems necessary to provide to an approved company in order to induce such company to undertake a major project within the state. Any such solicitation or request by the authority may be made only upon the condition that the person, corporation, foundation or other legal entity from whom assistance is requested agrees to continue its support for local economic development activities. The authority shall only be permitted to solicit assistance with respect to identified major projects and shall not solicit contributions for any general purpose. Any assistance which is provided to the authority and not used for the major project for which it was requested, shall be returned pro rata to the persons, corporations, foundations or other entities providing such assistance. The decision to provide all or a portion of

the assistance requested by the authority shall lie solely within the discretion of the person, corporation, foundation or other legal entity receiving the request. Any assistance provided to the authority pursuant to the provisions of this subsection (d) is hereby deemed to have a valid business purpose and shall be allowed as a deduction against the corporate income tax levied by Section 40-18-31, the personal income tax levied by Section 40-18-2, or the financial institution excise tax levied by Section 40-16-4, whichever is appropriate. If assistance is provided to the authority by any person, corporation, foundation or other legal entity, whether regulated or non-regulated, the cost of such assistance will be deemed to be a prudent, legal and non-discriminatory expenditure for all purposes of state law and regulation."

Section 13. Each investing company receiving a capital credit shall maintain or cause to be maintained records with respect to the qualifying project sufficient to allow the income of the investing company to be identified separately from other income of such investing company subject to Alabama income taxation. In order to limit the capital credit to the income tax liability attributable to the income generated by or arising from the qualified project within the state, the department shall promulgate regulations respecting the determination of income generated by or arising from the qualified project and the income tax attributable to such income.

Section 14. Section 4 of Act No. 93-851, H83 (Acts 1993, p. 79), adopted at the 1993 First Special Session of the Legislature of Alabama is amended to read as follows:

"Section 4. This act shall become effective immediately upon its passage and approval by the Governor."

Section 15. Capital credits authorized by this act shall not be available for new qualifying projects after December 31, 1998, unless the Legislature, by joint resolution, votes to continue or reinstate the capital credit for new projects after that date. No action or inaction on the part of the Legislature shall reduce or suspend any capital credit in any past or future calendar year with respect to any investing company which files a statement of intent pursuant to Section 2 on or prior to December 31, 1998, it being the sole intention of this Section 15 that failure of the Legislature to adopt a joint resolution continuing the capital credit for periods after December 31, 1998, shall affect only the availability of the capital credit to new qualifying projects after that date, and shall not affect qualifying projects which have established their eligibility to receive capital credits under Section 2 on or prior to December 31, 1998.

Section 16. The administration of this act by the department shall be governed by the provisions of the Taxpayers' Bill of Rights and the Uniform Revenue Procedures Act contained in Chapter 2A of Title 40 of the Code of Alabama 1975.

Section 17. All laws or parts of laws which conflict with this act are repealed.

Section 18. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 19. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 15, 1995

Time: 10:00 A.M.

Act No. 95-188 H.J.R. 228 – Rep. Robinson

HOUSE JOINT RESOLUTION

HONORING MR. CHARLIE COOK ON THE OCCASION OF HIS 99TH BIRTHDAY.

WHEREAS, it is with great personal pleasure and pride that the Alabama Legislature honors Mr. Charlie Cook of Scottsboro, Alabama, on the occasion of his 99th birthday, May 28, 1995; and

WHEREAS, Charlie Cook served in the U.S. Navy during World War I where he earned highest regard and admiration for his dedicated service as a member of the gun crew on an oil tanker and the U.S.S. Huntington; and he furthermore had the opportunity to explore the icy waters where the Titanic sank; and

WHEREAS, on May 29, 1995, Charlie Cook, who is thought of as the oldest World War I veteran in Jackson County, participated in the Memorial Day Parade and festivities of Scottsboro where he reflected upon his World War I memories; and

WHEREAS, it is an honor and a privilege to join with all members of the Jackson County community to celebrate this momentous occasion of Charlie's 99th birthday, and the tremendous contributions he has made and continues to make to the well-being of the community; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend heartiest congratulations and paramount praise to Mr. Charlie Cook of Scottsboro, Alabama, on the occasion of his 99th birthday, and do furthermore direct that he receive a copy of this resolution of sincere tribute, with warmest wishes for many more years of good health and happiness.

Approved June 15, 1995

Time: 4:10 P.M.

Act No. 95-189 H.J.R. 234 – Rep. Hammett

HOUSE JOINT RESOLUTION

RELATIVE TO MEETING DAYS.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That when the two houses adjourn Thursday, June 15, 1995, they adjourn to meet again on Tuesday, June 20, 1995, and when they adjourn on Tuesday they adjourn to meet again on Wednesday, June 21, 1995, and when they adjourn on Wednesday they ajourn to meet again on Thursday, June 22, 1995.

Approved June 15, 1995

Time: 4:11 P.M.

Act No. 95-190 S. 77 – Senators Bedford and Smitherman

AN ACT

To amend Section 12-16-9 of the Code of Alabama 1975, relating to sequestering of a jury in capital and non-capital felony cases; to allow the court to permit the jury to separate in capital cases.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 12-16-9 of the Code of Alabama 1975, is amended to read as follows:

"§12-16-9.

"In the prosecution of any felony case the trial court in its discretion may permit the jury hearing the case to separate during the pendency of the trial. The court may at any time on its own initiative or on motion of any party, require that the jury be sequestered under the charge of a proper officer whenever they leave the jury box or the court may allow them to separate. A

motion to separate or sequester shall not be made within the hearing of the jury, and the jury shall not be informed which party, if any, requested separation or sequestration."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 15, 1995

Time: 4:15 P.M.

Act No. 95-191 S. 242 – Senator Freeman

AN ACT

Amending Sections 32-6-3 and 32-6-21 of the Code of Alabama 1975, relating to driver's license examinations and the payment of the accompanying fee; to provide that the examination shall be conducted by the officer, state trooper, or agent designated by the Director of Public Safety and the fee shall be paid to the designated person.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 32-6-3 and 32-6-21 of the Code of Alabama 1975, are amended to read as follows:

"§32-6-3.

"(a) Every person who applies for an original driver's license under this article shall be given an examination before making application to the judge of probate or license commissioner for the issuance of a driver's license. The person shall first apply to the officer, state trooper, or duly authorized agent of the director of public safety, or one of them where there is more than one, designated by the director of public safety to conduct examinations. A minor shall furnish a certified copy of his or her birth certificate or a certified statement from the county superintendent of education of the county in which the minor resides or from the superintendent of the school which the minor attends proving that the minor is at least 16 years of age. Upon satisfying this requirement, the minor shall immediately be examined.

"(b) The director of public safety shall promulgate reasonable rules and regulations not in conflict with the laws of this state as to the kind of examination or test to be given and the method and manner of giving the examination and ascertaining and reporting the results of the examination. Reports of all examinations shall be on forms provided by the director of public safety and shall indicate if the applicant passed the examination.

"(c) If the applicant passes the examination, the applicant shall be given a certificate to that effect, on a form provided by the director of public safety, by the officer, state trooper, or duly authorized agent of the director of public safety conducting the examination. The applicant shall present the certificate to the judge of probate or license commissioner of his or her county together with the application for a driver's license. The judge of probate or license commissioner shall attach the certificate to the application and forward the application and certificate to the director of public safety.

"(d) If a person fails to pass the examination, no certificate shall be given to the person. No application for an original driver's license shall be accepted by a judge of probate or license commissioner unless it is accompanied by a certificate showing that the applicant has passed the examination.

"(e) A person who secures a renewal of a license in the manner provided by law shall not be required to take the examination unless the director of public safety deems it advisable to require the person to take the examination. If the director of public safety deems it advisable, the director shall notify the person in writing by letter sent to the address given on the application of the person at least 10 days before the date on which the examination or test is given of the time and place of the examination. The examination given to such a person shall be conducted in the same manner and the result of the examination ascertained and reported in the same way as examinations are given to persons applying for an original driver's license.

"(f) Failure of a person to appear after notice to take such an examination or test, or refusal by a person to take the examination or test, shall be grounds for suspension or revocation of the license of the person by the director of public safety. A person to whom such an examination or test is given who fails to pass the examination or test shall have his or her license revoked by the director of public safety."

"§32-6-21.

"(a) Every applicant for an original driver license, temporary instruction and learner's permit, and motor driven cycle operator's license, shall pay an examination fee of five dollars ($5) to the Alabama department of public safety upon applying to the officer, state trooper, or duly authorized agent of the director of public safety, or to one of them where there is more than one designated by the director of public safety. The five dollars ($5) fee shall be required prior to each examination.

"(b) The Alabama department of public safety shall issue proper receipts for the examination fee and shall properly transmit all moneys received by it for deposit in the state general fund."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 15, 1995

Time: 4:16 P.M.

Act No. 95-192 S. 317 – Senators Biddle and Waggoner

AN ACT

To amend Section 22-50-90, Code of Alabama 1975; to provide further for criminal history background information on certain persons the Department of Mental Health and Mental Retardation employs or contracts with, or both, to be direct care providers.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 22-50-90, Code of Alabama 1975, is amended to read as follows:

"§22-50-90.

"(a) When used in this article, the following words and terms shall have the following meanings:

"(1) CRIMINAL HISTORY BACKGROUND INFORMATION. Any information collected and stored in the criminal record repository of the Federal Bureau of Investigation (FBI) reflecting the result of an arrest, detention, or initiation of a criminal proceeding by criminal justice agencies, including, but not limited to, arrest record information, fingerprint cards, correctional induction and release information, identifiable descriptions, and notations of arrests, detention, indictments, or other formal charges. The term shall not include analytical records or investigative reports that contain criminal intelligence information or criminal investigation information.

"(2) DIRECT CARE PROVIDER. A psychiatrist, medical doctor, psychologist, social worker, community service specialist, therapist, nurse, mental health worker, foster care provider, police officer, and any other employee or person who has direct contact with the clients and patients served by the Alabama Department of Mental Health and Mental Retardation pursuant to a contract with the department.

"(b) Pursuant to Public Law 92-544 (86 Stat. 1115) and with the approval of the Attorney General of the United States, the Alabama Department of Mental Health and Mental Retardation may use the Department of Public Safety to secure criminal history background information through the Federal Bureau of Investigation (FBI) on persons with whom the Department of Mental Health and Mental Retardation employs or contracts with, or both, to be direct care providers to clients and patients. The information shall be provided by the Department of Public Safety to the Department of Mental Health and Mental Retardation pursuant to Section 32-2-61. Any request by the Department of Mental Health and Mental Retardation for the information on a direct care provider applicant shall include a complete set of fingerprints for each applicant and shall comply with the applicable administrative rules and procedures of the Department of Public Safety."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 15, 1995

Time: 4:17 P.M.

Act No. 95-193 H. 116 – Reps. Holmes, Box

AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the State Licensing Board for General Contractors.

Be It Enacted by the Legislature of Alabama:

Section 1. Pursuant to the Alabama Sunset Law, the Sunset Committee recommends the continuance of the State Licensing Board for General Contractors.

Section 2. The existence and functioning of the State Licensing Board for General Contractors, created and functioning pursuant to Sections 34-8-1 to 34-8-28, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1 and 2 of this act.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 15, 1995

Time: 4:20 P.M.

Act No. 95-194

H. 135 – Reps. Hammett, Clark (J), Carter, Fuller, Newton (D), Hooper, Hill, Knight (A), Moore, Clouse, Gaines, Gipson, Townsend, Wren, Laird, Turner, Allen, Morton, Gaston, Smith, Maull, Dean, Collins

AN ACT

To amend Sections 36-25-1 to 36-25-24, inclusive, and Sections 36-25-26 to 36-25-30, inclusive, Code of Alabama 1975, relating to the State Ethics Law, to define certain terms and conform existing provisions to those terms; provide for the eligibility of members to serve on the Ethics Commission; provide for a black appointee to the Commission; provide for the appointment and responsibilities of the director of the commission; provide that the commission may investigate complaints on its own initiative under certain circumstances; provide for the issuance of opinions and fees for publication; provide for the filing of a complaint and that all fees collected by the commission shall be deposited into the State General Fund; specify when a campaign contribution may be solicited or accepted by a candidate and provide further for the use of the contribution by the candidate; prohibit a former public official or public employee from serving as a lobbyist or representing a client before the department or board of which he or she is a former member for a period of two years after leaving that membership; increase the compensation threshold of public employees required to file a Statement of Economic Interests from $25,000 per annum to $50,000 and expand the monetary categories of listings of income and debt filed on the statement; specifically provide when a candidate is required to file a Statement of Economic Interests and provide that the candidate's name shall be removed from the ballot for failure to file the statement; require detailed registration by lobbyists along with the payment of an annual registration fee; require that quarterly reports be filed by each registered lobbyist; prohibit a public official, public employee, or a group of public officials or public employees from soliciting a lobbyist for anything except a campaign contribution; prohibit a supervisor from discharging or discriminating against an employee based upon the employee's reporting of a violation of the bill; establish the crime of false reporting and increase penalties for violations of the bill; provide that the commission may impose administrative penalties for violations; provide the procedure by which the Attorney General or a district attorney would institute proceedings for violations of the bill; provide further for venue of any action brought pursuant to this bill; make technical, clarifying changes to existing provisions; and repeal Section 36-25-25, Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 36-25-1 to 36-25-24, inclusive, and Sections 36-25-26 to 36-25-30, inclusive, Code of Alabama 1975, are amended to read as follows:

"§36-25-1.

"Whenever used in this chapter, the following words and terms shall have the following meanings:

"(1) BUSINESS. Any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, or any other legal entity.

"(2) BUSINESS WITH WHICH THE PERSON IS ASSOCIATED. Any business of which the person or a member of his or her family is an officer, owner, partner, Board of Director member, employee, or holder of more than five percent of the fair market value of the business.

"(3) CANDIDATE. An individual who has done any of the following:

"a. Taken the action necessary under the laws of the state to qualify himself or herself for nomination or for election to any state office or local office, or in the case of an independent seeking ballot access, on the date when he or she files a petition with the judge of probate in the case of county offices, with the appropriate qualifying municipal official in the case of municipal offices, or the Secretary of State in all other cases.

"b. Received contributions or made expenditures, or given his or her consent for any other person or persons to receive contributions or make expenditures, with a view to bringing about his or her nomination or election to any state office or local office. "Notwithstanding the foregoing, no person shall be considered a candidate within the meaning of this subdivision until the time he or she has either received contributions or expenditures as provided herein in the following amounts:

"1. Twenty-five thousand dollars ($25,000) or more, with a view toward bringing about nomination or election to any state office other than one filled by election of the registered voters of any circuit or district within the state.

"2. Five thousand dollars ($5,000) or more, with a view toward bringing about nomination or election to any state office, excluding legislative office, filled by election of the registered voters of any circuit or district.

"3. Ten thousand dollars ($10,000) or more, with a view toward bringing about nomination or election to the Alabama Senate and five thousand dollars ($5,000) or more, with a view toward bringing about nomination or election to the Alabama House of Representatives.

"4. One thousand dollars ($1,000) or more, with a view toward bringing about nomination or election to any local office.

"(4) COMMISSION. The state ethics commission.

(5) COMPLAINT. - Written allegation or allegations that a violation of this chapter has occurred.

"(6) COMPLAINANT. A person who alleges a violation or violations of this chapter by filing a complaint against a respondent.

"(7) CONFIDENTIAL INFORMATION. A complaint filed pursuant to this chapter, together with any statement, conversations, knowledge of evidence, or information received from the complainant, witness, or other person related to such complaint.

"(8) CONFLICT OF INTEREST. A conflict on the part of a public official or public employee between his or her private interests and the official responsibilities inherent in an office of public trust. A conflict of interest involves any action, inaction, or decision by a public official or public employee in the discharge of his or her official duties which would materially affect his or her financial interest or those of his or her family members or any business with which the person is associated in a manner different from the manner it affects the other members of the class to which he or she belongs. A conflict of interest shall not include any of the following:

"a. A loan or financial transaction made or conducted in the ordinary course of business.

"b. An occasional nonpecuniary award publicly presented by an organization for performance of public service.

"c. Payment of or reimbursement for actual and necessary expenditures for travel and subsistence for the personal attendance of a public official or public employee at a convention or other meeting at which he or she is scheduled to meaningfully participate in connection with his or her official duties and for which attendance no reimbursement is made by the state.

"d. Any campaign contribution, including the purchase of tickets to, or advertisements in journals, for political or testimonial dinners, if the contribution is actually used for political purposes and is not given under circumstances from which it could

reasonably be inferred that the purpose of the contribution is to substantially influence a public official in the performance of his or her official duties.

"(9) DAY. Calendar day.

"(10) DEPENDENT. Any person, regardless of his or her legal residence or domicile, who receives 50 percent or more of his or her support from the public official or public employee or his or her spouse or who resided with the public official or public employee for more than 180 days during the reporting period.

"(11) FAMILY MEMBER OF THE PUBLIC EMPLOYEE. The spouse or a dependent of the public employee.

"(12) FAMILY MEMBER OF THE PUBLIC OFFICIAL. The spouse, a dependent, an adult child and his or her spouse, a parent, a spouse's parents, a sibling and his or her spouse, of the public official.

"(13) GOVERNMENTAL CORPORATIONS AND AUTHORITIES. Public or private corporations and authorities, including but not limited to, hospitals or other health care corporations, established pursuant to state law by state, county or municipal governments for the purpose of carrying out a specific governmental function. Notwithstanding the foregoing, all employees, including contract employees, of hospitals or other health care corporations and authorities are exempt from the provisions of this chapter.

"(14) HOUSEHOLD. The public official, public employee, and his or her spouse and dependents.

"(15) LAW ENFORCEMENT OFFICER. A full-time employee of a governmental unit responsible for the prevention or investigation of crime who is authorized by law to carry firearms, execute search warrants, and make arrests.

"(16) LEGISLATIVE BODY. The Senate of Alabama, the House of Representatives of Alabama, a county commission, city council, city commission, town council, or municipal council or commission, and any committee or subcommittee thereof.

"(17) LOBBYING. The practice of promoting, opposing, or in any manner influencing or attempting to influence the introduction, defeat, or enactment of legislation before any legislative body; opposing or in any manner influencing the executive approval, veto, or amendment of legislation; or the practice of promoting, opposing, or in any manner influencing or attempting to influence the enactment, promulgation, modification, or deletion of regulations before any regulatory body; provided, however, that

providing public testimony before a legislative body or regulatory body or any committee thereof shall not be deemed lobbying.

"(18) LOBBYIST.

"a. The term lobbyist includes any of the following:

"1. A person who receives compensation or reimbursement from another person, group, or entity to lobby.

"2. A person who lobbies as a regular and usual part of employment, whether or not any compensation in addition to regular salary and benefits is received.

"3. A person who expends in excess of one hundred dollars ($100) for a thing of value, not including funds expended for travel, subsistence expenses, and literature, buttons, stickers, publications, or other acts of free speech, during a calendar year to lobby.

"4. A consultant to the state, county, or municipal levels of government or their instrumentalities, in any manner employed to influence legislation or regulation, regardless whether the consultant is paid in whole or part from state, county, municipal, or private funds.

5. An employee, a paid consultant, or a member of the staff of a lobbyist, whether or not he or she is paid, who regularly communicates with members of a legislative body regarding pending legislation and other matters while the legislative body is in session.

"b. The term lobbyist does not include any of the following:

"1. A member of a legislative body on a matter which involves that person's official duties.

"2. A person or attorney rendering professional services in drafting bills or in advising clients and in rendering opinions as to the construction and effect of proposed or pending legislation, executive action, or rules or regulations, where those professional services are not otherwise connected with legislative, executive, or regulatory action.

"3. Reporters and editors while pursuing normal reportorial and editorial duties.

"4. Any citizen not expending funds as set out above in paragraph a.3 or not lobbying for compensation who contacts a member of a legislative body, or gives public testimony on a particular issue or on particular legislation, or for the purpose of influencing legislation and who is merely exercising his or her constitutional right to communicate with members of a legislative body.

"5. A person who appears before a legislative body, a regulatory body, or an executive agency to either sell or purchase goods or services.

6. A person whose primary duties or responsibilities do not include lobbying, but who may, from time to time, organize social events for members of a legislative body to meet and confer with members of professional organizations and who may have only irregular contacts with members of a legislative body when the body is not in session or when the body is in recess.

"(19) MINOR VIOLATION. Any violation of this chapter in which the public official or public employee receives an economic gain in an amount less than two hundred fifty dollars ($250) or the governmental entity has an economic loss of less than two hundred fifty dollars ($250).

"(20) PERSON. A business, individual, corporation, partnership, union, association, firm, committee, club, or other organization or group of persons.

"(21) PERSONAL AND LEGISLATIVE LIVING EXPENSES. Household supplies; personal clothing; tuition payments; mortgage, rent, or utility payments for a personal residence; admission to an entertainment event or fees for a country club or social club, unless tied to a specific campaign event or functions involving constituents; and any other expense (excluding food and beverages) that would exist irrespective of the candidate's campaign or duties as a legislator. Personal and legislative living expenses shall not include: food and beverages, travel or communication expenses incurred by the legislator in the performance of the office held.

"(22) PRINCIPAL. A person or business which employs, hires, or otherwise retains a lobbyist. Nothing in this chapter shall be deemed to prohibit a principal from simultaneously serving as his or her own lobbyist.

(23) PROBABLE CAUSE - A finding that the allegations are more likely than not to have occurred.

"(24) PUBLIC EMPLOYEE. Any person employed at the state, county, or municipal level of government or their instrumentalities, including governmental corporations and authorities, but excluding employees of hospitals or other health care corporations including contract employees of those hospitals or other health care corporations, who is paid in whole or in part from state, county or municipal funds. For purposes of this chapter, a public employee does not include a person employed on a part-time basis

whose employment is limited to providing professional services other than lobbying, the compensation for which constitutes less than 50 percent of the part-time employee's income.

"(25) PUBLIC OFFICIAL. Any person elected to public office, whether or not that person has taken office, by the vote of the people at state, county, or municipal level of government or their instrumentalities, including governmental corporations, and any person appointed to a position at the state, county, or municipal level of government or their instrumentalities, including governmental corporations. For purposes of this chapter, a public official includes the chairs and vice-chairs or the equivalent offices of each state political party as defined in section 17-16-2, Code of Alabama 1975.

"(26) REGULATORY BODY. A state agency which issues regulations in accordance with the Alabama Administrative Procedure Act or a state, county, or municipal department, agency, board, or commission which controls, according to rule or regulation, the activities, business licensure, or functions of any group, person, or persons.

"(27) REPORTING PERIOD. The reporting official's or employee's fiscal tax year as it applies to his or her United States personal income tax return.

"(28) REPORTING YEAR. The reporting official's or employee's fiscal tax year as it applies to his or her United States personal income tax return.

"(29) RESPONDENT. A person alleged to have violated a provision of this chapter and against whom a complaint has been filed with the commission.

"(30) STATEMENT OF ECONOMIC INTERESTS. A financial disclosure form made available by the commission which shall be completed and filed with the commission prior to April 30 of each year covering the preceding calendar year by certain public officials and public employees.

"(31) SUPERVISOR. Any person having authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, or discipline other public employees, or any person responsible to direct them, or to adjust their grievances, or to recommend personnel action, if, in connection with the foregoing, the exercise of the authority is not of a merely routine or clerical nature but requires the use of independent judgment.

"(32) THING OF VALUE. a. Any gift, benefit, favor, service, gratuity, tickets or passes to an entertainment, social or sporting event offered only to public officials, unsecured loan, other than those loans made in the ordinary course of business, reward, promise of future employment, or honoraria.

"b. The term, thing of value, does not include any of the following, provided that no particular course of action is required as a condition to the receipt thereof:

"1. Campaign contribution as defined in Section 17-22A-2.

"2. Seasonal gifts of an insignificant economic value of less than one hundred dollars ($100) if the aggregate value of such gifts from any single donor is less than two hundred fifty dollars ($250) during any one calendar year.

"3. Hospitality extended to a public official, public employee, and his or her respective household as a social occasion in the form of food and beverages where the provider is present, lodging in the continental United States and Alaska incidental to the social occasion, and tickets to social or sporting events if the hospitality does not extend beyond three consecutive days and is not continuous in nature and the aggregate value of such hospitality in excess of two hundred fifty dollars ($250) within a calendar day is reported to the commission by the provider provided that the reporting requirement contained in this section shall not apply where the expenditures are made to or on behalf of an organization to which a federal income tax deduction is permitted under subparagraph (A) of paragraph (1) of subsection (b) of Section 170 of the Internal Revenue Code of 1986, as amended, or any charitable, education or eleemosynary cause of Section 501 of Title 26 of the U.S. Code, and where the public official or public employee does not receive any direct financial benefit. The reporting shall include the name or names of the recipient or recipients, the value of the entire expenditure, the date or dates of the expenditure, and the type of expenditure.

"4. Reasonable transportation, food and beverages where the provider is present, and lodging expenses in the continental United States and Alaska which are provided in conjunction with an educational or informational purpose, together with any hospitality associated therewith; provided, that such hospitality is less than 50 percent of the time spent at such event, and provided further that if the aggregate value of such transportation, lodging, food, beverages, and any hospitality provided to such public employee, public official, and his or her respective household is in excess of two hundred fifty dollars ($250) within a calendar day the total amount expended shall be reported to the commission by

the provider. The reporting shall include the name or names of the recipient or recipients, the value of the entire expenditure, the date or dates of the expenditure, and the type of expenditure.

"5. Promotional items commonly distributed to the general public and food or beverages of a nominal value.

"c. Nothing in this chapter shall be deemed to limit, prohibit, or otherwise require the disclosure of a personal gift made to a public official or public employee from a spouse, intended spouse, dependent, adult child, sibling, parent, grandparent, uncle, aunt, nephews, nieces or cousins of the public official or public employee, except as otherwise provided by law.

"d. Nothing in this chapter shall be deemed to limit, prohibit, or otherwise require the disclosure of gifts through inheritance received by a public employee or public official.

"(33) VALUE. The fair market price of a like item if purchased by a private citizen.

"§36-25-2.

"(a) The Legislature hereby finds and declares:

"(1) It is essential to the proper operation of democratic government that public officials be independent and impartial.

"(2) Governmental decisions and policy should be made in the proper channels of the governmental structure.

"(3) No public office should be used for private gain other than the remuneration provided by law.

"(4) It is important that there be public confidence in the integrity of government.

"(5) The attainment of one or more of the ends set forth in this subsection is impaired whenever there exists a conflict of interest between the private interests of a public official or a public employee and the duties of the public official or public employee.

"(6) The public interest, requires that the law protect against such conflicts of interest and establish appropriate ethical standards with respect to the conduct of public officials and public employees in situations where conflicts exist.

"(b) It is also essential to the proper operation of government that those best qualified be encouraged to serve in government. Accordingly, legal safeguards against conflicts of interest shall be so designed as not to unnecessarily or unreasonably impede the service of those men and women who are elected or appointed to do

so. An essential principle underlying the staffing of our governmental structure is that its public officials and public employees should not be denied the opportunity, available to all other citizens, to acquire and retain private economic and other interests, except where conflicts with the responsibility of public officials and public employees to the public cannot be avoided.

"(c) The Legislature declares that the operation of responsible democratic government requires that the fullest opportunity be afforded to the people to petition their government for the redress of grievances and to express freely to the legislative bodies and to officials of the executive branch, their opinions on legislation, on pending governmental actions, and on current issues. To preserve and maintain the integrity of the legislative and administrative processes, it is necessary that the identity, expenditures, and activities of certain persons who engage in efforts to persuade members of the legislative bodies or members of the executive branch to take specific actions, either by direct communication to these officials, or by solicitation of others to engage in such efforts, be publicly and regularly disclosed. This chapter shall be liberally construed to promote complete disclosure of all relevant information and to insure that the public interest is fully protected.

"(d) It is the policy and purpose of this chapter to implement these objectives of protecting the integrity of all governmental units of this state and of facilitating the service of qualified personnel by prescribing essential restrictions against conflicts of interest in public service without creating unnecessary barriers thereto.

"§36-25-3.

"(a) There is hereby created a state ethics commission composed of five members, each of whom shall be a fair, equitable citizen of this state and of high moral character and ability. The following persons shall not be eligible to be appointed as members: (1) a public official; (2) a candidate; (3) a registered lobbyist and his or her principal; or (4) a former employee of the commission. For purposes of this section, a public official shall not be deemed to include a part-time municipal judge and a registered lobbyist shall not be deemed to include a person whose lobbying activities are limited to providing public testimony to a legislative body or regulatory body or committee thereof. No member of the commission shall be eligible for reappointment to succeed himself or herself. The members of the commission shall be appointed by the following officers: the governor, the lieutenant governor, or in the absence of a Lieutenant Governor, the Presiding Officer of the Senate, and the speaker of the house of representatives and shall

assume their duties upon confirmation by the senate. The members of the first commission shall be appointed for terms of office expiring one, two, three, four and five years, respectively, from September 1, 1975. Successors to the members of the first commission shall serve for a term of five years beginning service on September 1 of the year appointed and serving until their successors are appointed and confirmed. If at any time there should be a vacancy on the commission, a successor member to serve for the unexpired term applicable to such vacancy shall be appointed by the governor. The commission shall elect one member to serve as chair of the commission and one member to serve as vice chair. The vice chair shall act as chair in the absence or disability of the chair or in the event of a vacancy in that office.

Beginning with the first vacancy on the Ethics Commission after the effective date of this act, if there is not a black member serving on the commission, that vacancy shall be filled by a black appointee. Any vacancy thereafter occurring on the commission, shall also be filled by a black appointee if there is no black member serving on the commission at that time.

"(b) A vacancy in the commission shall not impair the right of the remaining members to exercise all the powers of the commission, and three members thereof shall constitute a quorum.

"(c) The commission shall at the close of each fiscal year, or as soon thereafter as practicable, report to the legislature and the governor concerning the actions it has taken, the name, salary, and duties of the director, the names and duties of all individuals in its employ, the money it has disbursed, other relevant matters within its jurisdiction, and such recommendations for legislation as the commission deems appropriate.

"(d) Members of the commission shall, while serving on the business of the commission, be entitled to receive compensation at the rate of fifty dollars ($50) per day, and each member shall be paid his or her travel expenses incurred in the performance of his or her duties as a member of the commission as other state employees and officials are paid when approved by the chair. If for any reason a member of the commission wishes not to claim and accept the compensation or travel expenses, the member shall inform the director, in writing, of the refusal. The member may at any time during his or her term begin accepting compensation or travel expenses; however, the member's refusal for any covered period shall act as an irrevocable waiver for that period.

"(e) All members, officers, agents, attorneys, and employees of the commission shall be subject to this chapter. The director, members of the commission, and all employees of the commission shall

not engage in direct partisan political activity, including the making of campaign contributions, on the state, county, and local levels. The prohibition shall in no way act to limit or restrict such persons' ability to vote in any election.

"(f) The commission shall appoint a full-time director. The director shall serve at the pleasure of the commission and shall appoint such other employees as needed. All such employees, except the director, shall be employed subject to the provisions of the state merit system law, and their compensation shall be prescribed pursuant to such law. The employment of attorneys shall be subject to subsection (h). The compensation of the director shall be fixed by the commission, payable as the salaries of other state employees. The director shall be responsible for the administrative operations of the commission and shall administer this chapter in accordance with the commission's policies. No regulation shall be implemented by the director until adopted by the commission in accordance with Sections 41-22-1 to 41-22-27, inclusive, the Alabama Administrative Procedure Act.

"(g) The director may appoint part-time stenographic reporters or certified court reporters, as needed, to take and transcribe the testimony in any formal or informal hearing or investigation before the commission or before any person authorized by the commission. The reporters shall not be full-time employees of the commission and shall not be subject to the merit system law and may not participate in the State Retirement System.

"(h) The director may, with the approval of the Attorney General, appoint a competent attorney as legal counsel for the commission. The legal counsel shall be of good moral and ethical character, licensed to practice law in this state, and a member in good standing of the Alabama Bar Association. The legal counsel shall be commissioned as an Assistant or Deputy Attorney General and shall, in addition to the powers and duties herein conferred, have the authority and duties of an Assistant or Deputy Attorney General, except, that his or her entire time shall be devoted to the commission. The attorney shall act as an attorney for the commission in actions or proceedings brought by or against the commission pursuant to any provisions of law under the commission's jurisdiction, or in which the commission joins or intervenes as to a matter within the commission's jurisdiction, or as a friend of the court or otherwise; provided however, nothing in this chapter shall be deemed as a direct grant of subpoena power to the commission.

"(i) The director shall designate in writing the chief investigator, should there be one, and a maximum of six full-time

investigators who shall be and are hereby constituted law enforcement officers of the State of Alabama with full and unlimited police power and jurisdiction to enforce the laws of this state pertaining to the operation and administration of the commission and this chapter. Investigators shall meet the requirements of the Alabama Peace Officers' Standards and Training Act, Sections 36-21-40 to 36-21-51, inclusive and shall in all ways and for all purposes be considered law enforcement officers; provided however such investigators shall only exercise their power of arrest as granted under this act pursuant to an order issued by a court of competent jurisdiction.

"§36-25-4.

"(a) The commission shall do all of the following:

"(1) Prescribe forms for statements required to be filed by this chapter and make the forms available to persons required to file such statements.

"(2) Prepare guidelines setting forth recommended uniform methods of reporting for use by persons required to file statements required by this chapter.

"(3) Accept and file any written information voluntarily supplied that exceeds the requirements of this chapter.

"(4) Develop, where practicable, a filing, coding, and cross-indexing system consistent with the purposes of this chapter.

"(5) Make reports and statements filed with the commission available during regular business hours to public inquiry subject to such regulations as the commission may prescribe including, but not limited to, regulations requiring identification by name, occupation, address, and telephone number of each person examining information on file with the commission.

"(6) Preserve reports and statements for a period consistent with the statute of limitations as contained in this chapter. The reports and statements, when no longer required to be retained, shall be disposed of by shredding the reports and statements and disposing of or recycling them, or otherwise disposing of the reports and statements in any other manner prescribed by law. Nothing in this section shall in any manner limit the Department of Archives and History from receiving and retaining any documents pursuant to existing law.

"(7) Make investigations with respect to statements filed pursuant to this chapter, and with respect to alleged failures to file, or omissions contained therein, any statement required

pursuant to this chapter and, upon complaint by any individual, with respect to alleged violation of any part of this chapter to the extent authorized by law when in its opinion a thorough audit of any person or any business should be made in order to determine whether this chapter has been violated, the commission shall direct the examiner of public accounts to have an audit made and a report thereof filed with the commission. The examiner of public accounts shall, upon receipt of the directive, comply therewith.

"(8) Report suspected violations of law to the appropriate law-enforcement authorities.

"(9) Issue and publish advisory opinions on the requirements of this chapter, based on a real or hypothetical set of circumstances. Such advisory opinions shall be adopted by a majority vote of the members of the commission present and shall be effective and deemed valid until expressly overruled or altered by the commission or a court of competent jurisdiction. The written advisory opinions of the commission shall protect the person at whose request the opinion was issued and any other person reasonably relying, in good faith, on the advisory opinion in a materially like circumstance from liability to the state, a county, or a municipal subdivision of the state because of any action performed or action refrained from in reliance of the advisory opinion. Nothing in this section shall be deemed to protect any person relying on the advisory opinion if the reliance is not in good faith, is not reasonable, is not in a materially like circumstance. The commission may impose reasonable charges for publication of the advisory opinions and monies shall be collected, deposited, dispensed, or retained as provided herein. Upon the effective date of this amendatory act, all prior advisory opinions of the commission in conflict with this chapter, shall be ineffective and thereby deemed invalid and otherwise overruled unless there has been any action performed or action refrained from in reliance of a prior advisory opinion.

"(10) Initiate and continue, where practicable, programs for the purpose of educating candidates, officials, employees, and citizens of Alabama on matters of ethics in government service.

"(11) In accordance with Sections 41-22-1 to 41-22-27, inclusive, the Alabama Administrative Procedure Act, prescribe, publish, and enforce rules and regulations to carry out this chapter.

"(b) A complaint filed pursuant to this chapter, together with any statement, evidence, or information received from the complainant, witnesses, or other persons shall be protected by and subject to the same restrictions relating to secrecy and nondisclosure of information, conversation, knowledge, or evidence of Sections 12-16-214 to 12-16-216, inclusive. Such restrictions shall

apply to all investigatory activities taken by the director, the commission or a member thereof, staff, employees, or any person engaged by the commission in response to a complaint filed with the commission and to all proceedings relating thereto before the commission.

"(c) The commission shall not take any investigatory action on a telephonic or written complaint against a respondent so long as the complainant remains anonymous. Investigatory action on a complaint from an identifiable source shall not be initiated until the true identity of the source has been ascertained and written verification of such ascertainment is in the commission's files. The complaint may only be filed by a person who has or persons who have actual knowledge of the allegations contained in the complaint. A complainant may not file a complaint for another person or persons in order to circumvent this subsection. Prior to commencing any investigation, the commission shall: (1) receive a written and signed complaint which sets forth in detail the specific charges against a respondent, and the factual allegations which support such charges and (2) the director shall conduct a preliminary inquiry in order to make an initial determination that reasonable cause exists to conduct an investigation. If the director determines reasonable cause does not exist, the charges shall be dismissed, but such action must be reported to the commission. The commission shall be entitled to authorize an investigation upon a unanimous written consent of all five (5) commission members, upon an express finding that probable cause exists that a violation or violations of this chapter have occurred. A complaint may be initiated by the unanimous vote of the commission, provided, however, that the commission shall not conduct the hearing, but rather the hearing shall be conducted by three (3) active or retired judges, who shall be appointed by the Chief Justice of the Alabama Supreme Court, at least one of whom shall be black. The three (3) judge panel shall conduct the hearing in accordance with the procedures contained in this chapter and in accordance with the rules and regulations of the commission. If the three (3) judge panel unanimously finds that a person covered by this chapter has violated it, the three (3) judge panel shall forward the case to the district attorney for the jurisdiction in which the alleged acts occurred or to the attorney general. In all matters that come before the commission concerning a complaint on an individual, the laws of due process shall apply.

"(d) Not less than 45 days prior to any hearing before the commission, the respondent shall be given notice that a complaint has been filed against him or her and shall be given a summary of the charges contained therein. Upon the timely request of the

respondent, a continuance of the hearing for not less than 30 days shall be granted for good cause shown. The respondent charged in the complaint shall have the right to be represented by retained legal counsel. The commission may not require the respondent to be a witness against himself or herself.

"(e) The commission shall provide discovery to the respondent pursuant to the Alabama Rules of Criminal Procedure as promulgated by the Alabama Supreme Court.

"(f)(1) All fees, penalties, and fines collected by the commission pursuant to this chapter shall be deposited into the State General Fund.

"(2) All monies collected as reasonable payment of costs for copying, reproductions, publications, and lists shall be deemed a refund against disbursement and shall be deposited into the appropriate fund account for the use of the commission.

"(g) If the commission finds cause that a person covered by this chapter has violated it, the case and the commission's findings shall be forwarded to the district attorney for the jurisdiction in which the alleged acts occurred or to the Attorney General. The case, along with the commission's findings, shall be referred for appropriate legal action. Nothing in this section shall be deemed to limit the commission's ability to take appropriate legal action when so requested by the district attorney for the appropriate jurisdiction or by the Attorney General.

"§36-25-5.

"(a) No public official or public employee shall use or cause to be used his or her official position or office to obtain personal gain for himself or herself, or family member of the public employee or family member of the public official, or any business with which the person is associated unless the use and gain are otherwise specifically authorized by law. Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain.

"(b) Unless prohibited by the Constitution of Alabama of 1901, nothing herein shall be construed to prohibit a public official from introducing bills, ordinances, resolutions, or other legislative matters, serving on committees, or making statements or taking action in the exercise of his or her duties as a public official. A member of a legislative body may not vote for any legislation in which he or she knows or should have known that he or she has a conflict of interest.

"(c) No public official or public employee shall use or cause to be used equipment, facilities, time, materials, human labor, or other public property under his or her discretion or control for the

private benefit or business benefit of the public official, public employee, any other person, or principal campaign committee as defined in Section 17-22A-2, which would materially affect his or her financial interest, except as otherwise provided by law or as provided pursuant to a lawful employment agreement regulated by agency policy.

"(d) No person shall solicit a public official or public employee to use or cause to be used equipment, facilities, time, materials, human labor, or other public property for such person's private benefit or business benefit, which would materially affect his or her financial interest, except as otherwise provided by law.

"(e) No public official or public employee shall, other than in the ordinary course of business, solicit a thing of value from a subordinate or person or business with whom he or she directly inspects, regulates, or supervises in his or her official capacity.

"(f) A conflict of interest shall exist when a member of a legislative body, public official, or public employee has a substantial financial interest by reason of ownership of, control of, or the exercise of power over any interest greater than five percent of the value of any corporation, company, association, or firm, partnership, proprietorship, or any other business entity of any kind or character which is uniquely affected by proposed or pending legislation; or who is an officer, or director for any such corporation, company, association, or firm, partnership, proprietorship, or any other business entity of any kind or character which is uniquely affected by proposed or pending legislation.

"§36-25-6.

"(a) Notwithstanding any other provision of law, including but not limited to Sections 17-22A-1 to 17-22A-23, inclusive, and 13A-10-61, a candidate, public official, or principal campaign committee, as defined in Section 17-22A-2, may only accept, solicit, or receive contributions, as defined in Section 17-22A-2, to influence the outcome of an election; in addition, a candidate, public official, or principal campaign committee may not accept, solicit, or receive contributions more than 12 months before an election in which the person intends to be a candidate. The candidate may also solicit contributions for a period of 120 days after the election in which the person was a candidate, but only to the extent of any campaign debt of the candidate or the principal campaign committee of the candidate as indicated on campaign financial disclosure form or to the extent of reaching the threshold that is required for qualification as a candidate for the office which he or she currently holds. The provision of this section dealing with the campaign debt of the candidates or the principal campaign committee of the candidate

shall not apply to any prior candidate or current elected official who files a verified statement of such debt with the Secretary of State on or before the effective date of this act. Said debt must have been created on or before January 1, 1995 and shall be directly related to lawful campaign expenditures. Provided, however, any candidate or elected official whose election is challenged including quo warranto challenges may then accept, solicit and receive campaign contributions for the purpose of paying all expenses associated with the election challenge.

"(b) Notwithstanding any other provision of law, including, but not limited to Sections 17-22A-1 to 17-22A-23, inclusive, and 13A-10-61, a candidate, public official, or principal campaign committee shall not accept, solicit, or receive contributions for any of the following reasons:

"(1) As a bribe, as defined by Sections 13A-10-60 to 13A-10-63, inclusive.

"(2) For the intention of corruptly influencing the official actions of the public official or candidate for public office.

"(c) Notwithstanding any other provision of law, including, but not limited to Section 17-22A-7, a candidate, public official, or principal campaign committee may only use contributions, as defined by Section 17-22A-2, received for the following purposes:

"(1) Expenditures of the campaign.

"(2) Expenditures that are reasonably related to performing the duties of the office held. For purposes of this section, expenditures that are reasonably related to performing the duties of the office held do not include personal and legislative living expenses.

"(3) Donations to the State General Fund, Alabama Special Educational Trust Fund or equivalent county or municipal funds.

"(4) Donations to an organization to which a federal income tax deduction is permitted under subparagraph (A) of paragraph (1) of subsection (b) of Section 170 of the Internal Revenue Code of 1986, as amended, or any other charitable, educational, or eleemosynary cause of Section 501 of Title 26 of the U.S. Code.

"(5) Inaugural or transitional expenses incurred after the effective date of this act.

"(d) Contributions to an office holder, a candidate, or to a public official's inaugural or transitional fund shall not be converted to personal use.

"§36-25-7.

"(a) No person shall offer or give to a public official or public employee or a member of the household of a public employee or a member of the household of the public official and none of the aforementioned shall solicit or receive a thing of value for the purpose of influencing official action.

"(b) No public official or public employee shall solicit or receive a thing of value for himself or herself or for a family member of the public employee or family member of the public official for the purpose of influencing official action.

"(c) No person shall offer or give a family member of the public official or family member of the public employee a thing of value for the purpose of influencing official action.

"(d) No public official or public employee, shall solicit or receive any money in addition to that received by the public official or public employee in an official capacity for advice or assistance on matters concerning the legislature, lobbying a legislative body, an executive department or any public regulatory board, commission or other body of which he or she is a member. Notwithstanding the foregoing, nothing in this section shall be construed to prohibit a public official or public employee from the performance of his or her official duties or responsibilities.

"§36-25-8.

"No public official, public employee, former public official or former public employee, for a period consistent with the Statute of Limitations as contained in this chapter, shall use or disclose confidential information gained in the course of or by reason of his or her position or employment in any way that could result in financial gain other than his or her regular salary as such public official or public employee for himself or herself, a family member of the public employee or family member of the public official, or for any other person or business.

"§36-25-9.

(a) Unless expressly provided otherwise by law, no person shall serve as a member or employee of a state, county, or municipal regulatory board or commission or other body that regulates any business with which he is associated. Nothing herein shall prohibit real estate brokers, agents, developers, appraisers, mortgage bankers, or other persons in the real estate field, or other state-licensed professionals, from serving on any planning boards or commissions, housing authorities, zoning board, board of adjustment, code enforcement board, industrial board, utilities board, state board, or commission.

(b) All county or municipal regulatory boards, authorities, or commissions currently comprised of any real estate brokers, agents, developers, appraisers, mortgage bankers, or other persons in the real estate industry may allow these individuals to continue to serve out their current term if appointed before December 31, 1991, except that at the conclusion of such term subsequent appointments shall reflect that membership of real estate brokers and agents shall not exceed more than one less of a majority of any county or municipal regulatory board or commission effective January 1, 1994.

"(c) No member of any county or municipal agency, board, or commission shall vote or participate in any matter in which the member or family member of the member has any financial gain or interest.

"(d) All acts, actions, and votes taken by such local boards and commissions between January 1, 1991 and December 31, 1993 are affirmed and ratified.

"§36-25-10.

"If a public official or public employee, or family member of the public employee or family member of the public official, or a business with which the person is associated, represents a client or constituent for a fee before any quasi-judicial board or commission, regulatory body, or executive department or agency, notice of the representation shall be given within 10 days after the first day of the appearance. Notice shall be filed with the commission in the manner prescribed by it. No member of the legislature shall for a fee, reward, or other compensation represent any person, firm, or corporation before the public service commission or the state board of adjustment.

"§36-25-11.

"Unless exempt pursuant to Alabama competitive bid laws or otherwise permitted by law, no public official or public employee, or a member of the household of the public employee or the public official, and no business with which the person is associated shall enter into any contract to provide goods or services which is to be paid in whole or in part out of state, county, or municipal funds unless the contract has been awarded through a process of competitive bidding and a copy of the contract is filed with the commission. All such contract awards shall be made as a result of original bid takings, and no awards from negotiations after bidding shall be allowed. A copy of each contract, regardless of the amount, entered into by a public official, public employee, a member of the household of the public employee or the public official, and any

business with which the person is associated shall be filed with the commission within 10 days after the contract has been entered into.

"§36-25-12.

"No person shall offer or give to a member or employee of a governmental agency, board, or commission that regulates a business with which the person is associated, and no member or employee of a regulatory body, shall solicit or accept a thing of value while the member or employee is associated with the regulatory body other than in the ordinary course of business.

"§36-25-13.

"(a) No public official shall serve for a fee as a lobbyist or otherwise represent clients, including his or her employer before the board, agency, commission, department, or legislative body, of which he or she is a former member for a period of two years after he or she leaves such membership. For the purposes of this subsection, such prohibition shall not include a former member of the Alabama judiciary who as an attorney represents a client in a legal, non-lobbying capacity.

"(b) No public employee shall serve for a fee as a lobbyist or otherwise represent clients, including his or her employer before the board, agency, commission, or department, of which he or she is a former employee for a period of two years after he or she leaves such employment. For the purposes of this subsection, such prohibition shall not include a former employee of the Alabama judiciary who as an attorney represents a client in a legal, non-lobbying capacity.

"(c) No public official, director, assistant director, department or division chief, purchasing or procurement agent having the authority to make purchases, or any person who participates in the negotiation or approval of contracts, grants, or awards or any person who negotiates or approves contracts, grants, or awards shall enter into, solicit, or negotiate a contract, grant, or award with the governmental agency of which the person was a member or employee for a period of two years after he or she leaves the membership or employment of such governmental agency.

"(d) No public official or public employee who personally participates in the direct regulation, audit, or investigation of a private business, corporation, partnership, or individual shall within two years of his or her departure from such employment solicit or accept employment with such private business, corporation, partnership, or individual.

"(e) No former public official or public employee of the state may, within two years after termination of office or employment, act as attorney for any person other than himself or herself or the state, or aid, counsel, advise, consult or assist in representing any other person, in connection with any judicial proceeding or other matter in which the state is a party or has a direct and substantial interest and in which the former public official or public employee participated personally and substantially as a public official or employee or which was within or under the public official or public employee's official responsibility as an official or employee. This prohibition shall extend to all judicial proceedings or other matters in which the state is a party or has a direct and substantial interest, whether arising during or subsequent to the public official or public employee's term of office or employment."

(f) Nothing in this chapter shall be deemed to limit the right of a public official or public employee to publicly or privately express his or her support for or to encourage others to support and contribute to any candidate, political committee as defined in Section 17-22A-2, referendum, ballot question, issue, or constitutional amendment.

"§36-25-14.

"(a) A statement of economic interests shall be completed and filed in accordance with this chapter with the commission no later than April 30 of each year covering the period of the preceding calendar year by each of the following:

"(1) All elected public officials at the state, county, or municipal level of government or their instrumentalities.

"(2) Any person appointed as a public official and any person employed as a public employee at the state, county, or municipal level of government or their instrumentalities who occupies a position whose base pay is fifty thousand dollars ($50,000) or more annually.

"(3) All candidates, simultaneously with the date he or she becomes a candidate as defined herein, or the date the candidate files his or her qualifying papers, whichever comes first.

"(4) Members of the Alabama Ethics Commission; appointed members of boards and commissions having statewide jurisdiction (but excluding members of solely advisory boards).

"(5) All full-time nonmerit employees, other than those employed in maintenance, clerical, secretarial, or other similar positions.

"(6) Chief clerks and chief managers.

"(7) Chief county clerks and chief county managers.

"(8) Chief administrators.

"(9) Chief county administrators.

"(10) Any public official or public employee whose primary duty is to invest public funds.

"(11) Chief administrative officers of any political subdivision.

"(12) Chief and assistant county building inspectors.

"(13) Any county or municipal administrator with power to grant or deny land development permits.

"(14) Chief municipal clerks.

"(15) Chiefs of police.

"(16) Fire chiefs.

"(17) City and county school superintendents and school board members.

"(18) City and county school principals or administrators.

"(19) Purchasing or procurement agents having the authority to make any purchase.

"(20) Directors and assistant directors of state agencies.

"(21) Chief financial and accounting directors.

"(22) Chief grant coordinators.

"(23) Each employee of the Legislature or of agencies, including temporary committees and commissions established by the Legislature, other than those employed in maintenance, clerical, secretarial, or similar positions.

"(24) Each employee of the judicial branch of government, including active supernumerary district attorneys and judges, other than those employed in maintenance, clerical, secretarial, or other similar positions.

(b) Unless otherwise required by law, no public employee occupying a position earning less than fifty thousand dollars ($50,000) per year shall be required to file a Statement of Economic Interests. Notwithstanding the provisions of subsection (a) or any other provision of this act, no coach of an athletic team of any four-year institution of higher education which receives state funds shall be required to include any income, donations, gifts, or

benefits, other than salary, on the Statement of Economic Interests, if the income, donations, gifts, or benefits are a condition of the employment contract. Such statement shall be made on a form made available by the commission. The duty to file the Statement of Economic Interests shall rest with the person covered by this chapter. Nothing in this chapter shall be construed to exclude any public employee or public official from this chapter regardless of whether they are required to file a Statement of Economic Interests. The statement shall contain the following information on the person making the filing:

"(1) Name, residential address, business; name, address, and business of living spouse and dependents; name of living adult children; name of parents and siblings; name of living parents of spouse. Undercover law enforcement officers may have their residential addresses and the names of family members removed from public scrutiny by filing an affidavit stating that publicizing this information would potentially endanger their families.

"(2) A list of occupations to which one third or more of working time was given during previous reporting year by the public official, public employee, or his or her spouse.

"(3) A listing of total combined household income of the public official or public employee during the most recent reporting year as to income from salaries, fees, dividends, profits, commissions, and other compensation and listing the names of each business and the income derived from such business in the following categorical amounts: less than one thousand dollars ($1,000); at least one thousand dollars ($1,000) and less than ten thousand dollars ($10,000); at least ten thousand dollars ($10,000) and less than fifty thousand dollars ($50,000); at least fifty thousand dollars ($50,000) and less than one hundred fifty thousand dollars ($150,000); at least one hundred fifty thousand dollars ($150,000) and less than two hundred fifty thousand dollars ($250,000); or at least two hundred fifty thousand dollars ($250,000) or more. The person reporting shall also name any business or subsidiary thereof in which he or she or his or her spouse or dependents, jointly or severally, own five percent or more of the stock or in which he or she or his or her spouse or dependents serves as an officer, director, trustee, or consultant where the service provides income of at least one thousand dollars ($1,000) and less then five thousand dollars ($5,000); or at least five thousand dollars ($5,000) or more for the reporting period.

"(4) If the filing public official or public employee, or his or her spouse, has engaged in a business during the last reporting year which provides legal, accounting, medical or health related, real

estate, banking, insurance, educational, farming, engineering, architectural management, or other professional services or consultations, then the filing party shall report the number of clients of such business in each of the following categories and the income in categorical amounts received during the reporting period from the combined number of clients in each category: electric utilities, gas utilities, telephone utilities, water utilities, cable television companies, intrastate transportation companies, pipeline companies, oil or gas exploration companies, or both, oil and gas retail companies, banks, savings and loan associations, loan or finance companies, or both, manufacturing firms, mining companies, life insurance companies, casualty insurance companies, other insurance companies, retail companies, beer, wine or liquor companies or distributors, or combination thereof, trade associations, professional associations, governmental associations, associations of public employees or public officials, counties, and any other businesses or associations that the commission may deem appropriate. Amounts received from combined clients in each category shall be reported in the following categorical amounts: less than one thousand dollars ($1,000); more than one thousand dollars ($1,000) and less than ten thousand dollars ($10,000); at least ten thousand dollars ($10,000) and less than twenty-five thousand dollars ($25,000); at least twenty-five thousand dollars ($25,000) and less than fifty thousand dollars ($50,000); at least fifty thousand dollars ($50,000) and less than one hundred thousand dollars ($100,000); at least one hundred thousand dollars ($100,000) and less than one hundred fifty thousand dollars ($150,000); at least one hundred fifty thousand dollars ($150,000) and less than two hundred fifty thousand dollars ($250,000); or at least two hundred fifty thousand dollars ($250,000) or more.

"(5) If retainers are in existence or contracted for in any of the above categories of clients, a listing of the categories along with the anticipated income to be expected annually from each category of clients shall be shown in the following categorical amounts: less than one thousand dollars ($1,000); at least one thousand dollars ($1,000) and less than five thousand dollars ($5,000); or at least five thousand dollars ($5,000) or more.

"(6) If real estate is held for investment or revenue production by a public official, his or her spouse or dependents, then a listing thereof in the following fair market value categorical amounts: under fifty thousand dollars ($50,000); at least fifty thousand dollars ($50,000) and less than one hundred thousand dollars ($100,000); at least one hundred thousand dollars ($100,000) and less than one hundred fifty thousand dollars ($150,000); at least one hundred fifty thousand dollars ($150,000) and less than two

hundred fifty thousand dollars ($250,000); at least two hundred fifty thousand dollars ($250,000) or more. A listing of annual gross rent and lease income on real estate shall be made in the following categorical amounts: less than ten thousand dollars ($10,000); at least ten thousand dollars ($10,000) and less than fifty thousand dollars ($50,000); fifty thousand dollars ($50,000) or more. If a public official or a business in which the person is associated received rent or lease income from any governmental agency in Alabama, specific details of the lease or rent agreement shall be filed with the commission.

"(7) A listing of indebtedness to businesses operating in Alabama showing types and number of each as follows: Banks, savings and loan associations, insurance companies, mortgage firms, stockbrokers and brokerages or bond firms; and the indebtedness to combined organizations in the following categorical amounts: Less than twenty-five thousand dollars ($25,000); twenty-five thousand dollars ($25,000) and less than fifty thousand dollars ($50,000); fifty thousand dollars ($50,000) and less than one hundred thousand dollars ($100,000); one hundred thousand dollars ($100,000) and less than one hundred fifty thousand dollars ($150,000); one hundred fifty thousand dollars ($150,000) and less than two hundred fifty thousand dollars ($250,000); two hundred fifty thousand dollars ($250,000) or more. The commission may add additional business to this listing. Indebtedness associated with the homestead of the person filing is exempted from this disclosure requirement.

"(c) Filing required by this section shall reflect information and facts in existence at the end of the reporting year.

"(d) If the information required herein is not filed as required, the commission shall notify the public official or public employee concerned as to his or her failure to so file and the public official or public employee shall have 10 days to file the report after receipt of the notification. The commission may, in its discretion, assess a fine of ten dollars ($10) a day, not to exceed one thousand dollars ($1,000), for failure to file timely.

"(e) A person who intentionally violates any financial disclosure filing requirement of this chapter shall be subject to administrative fines imposed by the commission, or shall, upon conviction, be guilty of a Class A misdemeanor, or both.

Any person who unintentionally neglects to include any information relating to the financial disclosure filing requirements of this chapter shall have 90 days to file an amended statement of economic interests without penalty.

"§36-25-15.

"(a) Candidates at every level of government shall file a completed Statement of Economic Interests for the previous calendar year with the appropriate election official simultaneously with the date he or she becomes a candidate as defined herein or the date such candidate files his or her qualifying papers with the appropriate election official, whichever date occurs first. Such election official shall within five days forward the Statement of Economic Interests of the candidate to the commission. Nothing in this section shall be deemed to require a second filing of the person's Statement of Economic Interests if a current Statement of Economic Interests is on file with the commission.

"(b) Each election official who receives a declaration of candidacy or petition to appear on the ballot for election from a candidate and each official who nominates a person to serve as a public official shall, within five days of the receipt or nomination, notify the commission of the name of the candidate, as defined in this chapter, and the date on which the person became a candidate or was nominated as a public official.

"(c) Other provisions of the law notwithstanding, if a candidate does not submit a statement of economic interests in accordance with the requirements of this chapter, the name of the person shall not appear on the ballot and the candidate shall be deemed not qualified as a candidate in that election. Notwithstanding the foregoing, the commission may, for good cause shown, allow the candidate an additional five days to file such Statement of Economic Interests. If a candidate is deemed not qualified, the appropriate election official shall remove the name of the candidate from the ballot.

"§36-25-16.

"(a) When any citizen of the state or business with which he or she is associated represents for a fee any person before a regulatory body of the executive branch, he or she shall report to the commission the name of any adult child, parent, spouse, brother, or sister who is a public official or a public employee of that regulatory body of the executive branch.

"(b) When any citizen of the state or business with which the person is associated enters into a contract for the sale of goods or services to the state of Alabama or any of its agencies or any county or municipality and any of their respective agencies in amounts exceeding seven thousand five hundred dollars ($7,500), he or she shall report to the commission the names of any adult child, parent, spouse, brother, or sister who is a public official or

public employee of the agency or department with whom the contract is made.

"(c) This section shall not apply to any contract for the sale of goods or services awarded through a process of public notice and competitive bidding.

"(d) Each regulatory body of the executive branch, or any agency of the state of Alabama shall be responsible for notifying citizens affected by this chapter of the requirements of this section.

"§36-25-17.

"(a) Every governmental agency head shall within 10 days file reports with the commission on any matters that come to his or her attention in his or her official capacity which constitute a violation of this chapter.

"(b) Governmental agency heads shall cooperate in every possible manner in connection with any investigation or hearing, public or private, which may be conducted by the commission.

"§36-25-18.

"(a) Every lobbyist shall register by filing a form prescribed by the commission no later than January 31 of each year or within 10 days after the first undertaking requiring such registration. Each lobbyist, except public employees who are lobbyists, shall pay an annual fee of one hundred dollars ($100) on or before January 31 of each year or within 10 days of the first undertaking requiring such registration.

"(b) The registration shall be in writing and shall contain the following information:

"(1) The registrant's full name and business address.

"(2) The registrant's normal business and address.

"(3) The full name and address of the registrant's principal or principals.

"(4) The listing of the categories of subject matters on which the registrant is to communicate directly with a member of the legislative body to influence legislation or legislative action.

"(5) If a registrant's activity is done on behalf of the members of a group other than a corporation, a categorical disclosure of the number of persons of the group as follows: 1-5; 6-10; 11-25; over 25.

"(6) A statement signed by each principal that he or she has read the registration, knows its contents and has authorized the registrant to be a lobbyist in his or her behalf as specified therein,

and that no compensation will be paid to the registrant contingent upon passage or defeat of any legislative measure.

"(c) A registrant shall file a supplemental registration indicating any substantial change or changes in the information contained in the prior registration within 10 days after the date of the change.

"§36-25-19.

"(a) Every person registered as a lobbyist pursuant to section 36-25-18 and every principal employing any lobbyist shall file with the commission a report provided by the commission pertaining to the activities set out in that section. The report shall be filed with the commission no later than January 31, April 30, July 31, and October 31 for each preceding calendar quarter, and contain, but not be limited to, the following information:

"(1) The cost of those items excluded from the definition of a thing of value which are described in Section 36-25-1(30)b. and which are expended within a 24-hour period on a public official, public employee, and members of his or her respective household in excess of two hundred fifty dollars ($250) with the name or names of the recipient or recipients and the date of the expenditure.

"(2) The nature and date of any financial transaction between the public official, candidate, or member of the household of such public official or candidate and the lobbyist or principal of a value in excess of five hundred dollars ($500) in the prior quarter, excluding those financial transactions which are required to be reported by candidates under the Fair Campaign Practices Act as provided in Chapter 22A (commencing with Section 17-22A-1) of Title 17 of the Code of Alabama 1975.

"(3) A detailed statement showing the exact amount of any loan given or promised to a public official, candidate, public official or candidate.

"(4) A detailed statement showing any direct business association or partnership with any public official, candidate, or members of the household of such public official or candidate; provided, however, that campaign expenditures shall not be deemed a business association or partnership.

"(b) Any person not otherwise deemed a lobbyist pursuant to this chapter who negotiates or attempts to negotiate a contract, sells or attempts to sell goods or services, engages or attempts to engage in a financial transaction with a public official or public employee in their official capacity and who within a calendar day

expends in excess of two hundred fifty dollars ($250) on such public employee, public official, and his or her respective household shall file a detailed quarterly report of the expenditure with the commission.

"(c) Any other provision of this chapter to the contrary notwithstanding, no organization whose officer or employee serves as a public official under this chapter shall be required to report expenditures or reimbursement paid to such officer or employee in the performance of the duties with the organization.

"§36-25-20.

"(a) A person who ceases to engage in activities requiring registration pursuant to section 36-25-18 shall file a written, verified statement with the commission acknowledging the termination of activities. The notice shall be effective immediately.

"(b) A person who files a notice of termination pursuant to this section shall file the reports required pursuant to sections 36-25-18 and 36-25-19 for any reporting period during which he or she was registered pursuant to this chapter.

"§36-25-21.

"All reports filed pursuant to sections 36-25-18 to 36-25-20, inclusive, are public records and shall be made available for public inspection during regular business hours.

"§36-25-22.

"Sections 36-25-18 to 36-25-21, inclusive, shall not be construed as affecting professional services in drafting bills or in advising clients and in rendering opinions as to the construction and effect of proposed or pending legislation, executive action, rules, or regulations, where those professional services are not otherwise connected with legislative, executive, or regulatory action.

"§36-25-23.

"(a) No former member of the house of representatives or the senate of the state of Alabama shall be extended floor privileges of either body in a lobbying capacity.

"(b) No public official, public employee, or group of public officials or public employees shall solicit any lobbyist to give any thing whether or not the thing solicited is a thing of value to any person or entity for any purpose other than a campaign contribution.

"(c) No principal or lobbyist shall accept compensation for, or enter into a contract to provide lobbying services which is contingent upon the passage or defeat of any legislative action.

"§36-25-24.

"(a) A supervisor shall not discharge, demote, transfer, or otherwise discriminate against a public employee regarding such employee's compensation, terms, conditions, or privileges of employment based on the employee's reporting a violation, or what he or she believes in good faith to be a violation, of this chapter or giving truthful statements or truthful testimony concerning an alleged ethics violation.

"(b) Nothing in this chapter shall be construed in any manner to prevent or prohibit or otherwise limit a supervisor from disciplining, discharging, transferring, or otherwise affecting the terms and conditions of a public employee's employment so long as the disciplinary action does not result from or is in no other manner connected with the public employee's filing a complaint with the commission, giving truthful statements, and truthfully testifying.

"(c) No public employee shall file a complaint or otherwise initiate action against a public official or other public employee without a good faith basis for believing the complaint to be true and accurate.

"(d) A supervisor who is alleged to have violated this section shall be subject to civil action in the circuit courts of this state pursuant to the Alabama Rules of Civil Procedure as promulgated by the Alabama Supreme Court.

"(e) A public employee who without a good faith belief in the truthfulness and accuracy of a complaint filed against a supervisor, shall be subject to a civil action in the circuit courts in the State of Alabama pursuant to the Alabama Rules of Civil Procedure as promulgated by the Supreme Court. Additionally, a public employee who without a good faith belief in the truthfulness and accuracy of a complaint as filed against a supervisor shall be subject to appropriate and applicable personnel action.

"(f) Nothing in this section shall be construed to allow a public employee to file a complaint to prevent, mitigate, lessen, or otherwise to extinguish existing or anticipated personnel action by a supervisor. A public employee who willfully files such a complaint against a supervisor shall, upon conviction, be guilty of the crime of false reporting.

"§36-25-26.

"No person, for the purpose of influencing legislation, may do either of the following:

"(1) Knowingly or willfully make any false statement or

misrepresentation of the facts to a member of the legislative or executive branch.

"(2) Knowing a document to contain a false statement, cause a copy of the document to be received by a member of the legislative or executive branch without notifying the member in writing of the truth.

"§36-25-27.

"(a)(1) Except as otherwise provided, any person subject to this chapter who intentionally violates any provision of this chapter other than those for which a separate penalty is provided for in this section shall, upon conviction, be guilty of a Class B felony.

"(2) Any person subject to this chapter who violates any provision of this chapter other than those for which a separate penalty is provided for in this section shall, upon conviction, be guilty of a Class A misdemeanor.

"(3) Any person subject to this chapter who knowingly violates any disclosure requirement of this chapter shall, upon conviction, be guilty of a Class A misdemeanor.

"(4) Any person who knowingly makes or transmits a false report or complaint pursuant to this chapter shall, upon conviction, be guilty of a Class A misdemeanor and shall be liable for the actual legal expenses incurred by the respondent against whom the false report or complaint was filed.

"(5) Any person who makes false statements to an employee of the commission or to the commission itself pursuant to this chapter without reason to believe the accuracy of the statements shall, upon conviction, be guilty of a Class A misdemeanor.

"(6) Any person subject to this chapter who intentionally violates this chapter relating to secrecy shall, upon conviction, be guilty of a Class A misdemeanor.

"(7) Any person subject to this chapter who intentionally fails to disclose information required by this chapter shall, upon conviction, be guilty of a Class A misdemeanor.

"(b) The commission if petitioned or agreed to by a respondent and the Attorney General or district attorney having jurisdiction, by unanimous vote of the members present may administratively resolve a complaint filed pursuant to this chapter for minor violations. The commission may levy an administrative penalty not to exceed one thousand dollars ($1,000) for any minor violation of this chapter including, but not limited to, the failure to timely file

a complete and correct Statement of Economic Interests. The commission shall, in addition to any administrative penalty, order restitution in the amount of any economic loss to the state, county, and municipal governments and their instrumentalities and such restitution shall when collected be paid by the commission, to the entity having the economic loss. In any case in which an administrative penalty is imposed, the administrative penalty shall not be less than three times the amount of any economic loss to the state, county, and municipal governments or their instrumentalities or any economic gain or benefit to the public official or public employee, or which ever sum is greater. The commission, through its attorney, shall institute proceedings to recover any penalties or restitution or other such funds so ordered pursuant to this section which are not paid by, or on behalf of the public official or public employee or other person who has violated this chapter. Nothing in this section shall be deemed in any manner to prohibit the commission and the respondent from entering into a consent decree settling a complaint which has previously been designated by the commission for administrative resolution, so long as the consent decree is approved by the commission. If the commission, the respondent, and the Attorney General or district attorney having jurisdiction, all concur that a complaint is deemed to be handled administratively, the action shall preclude any criminal prosecution pursuant to this chapter at the state, county, or municipal level.

"(c) The enforcement of this chapter shall be vested in the commission; provide however, nothing in this chapter shall be deemed to limit or otherwise prohibit the Attorney General or the District Attorney for the appropriate jurisdiction from enforcing any provision of this chapter as they deem appropriate. In the event the commission, by majority vote, finds that any provision of this chapter has been violated, the alleged violation and any investigation conducted by the commission shall be referred to the district attorney of the appropriate jurisdiction or the Attorney General. The commission shall provide any and all appropriate assistance to such district attorney or Attorney General. Upon the request of such district attorney or the Attorney General, the commission may institute, prosecute, or take such other appropriate legal action regarding such violations, proceeding therein with all rights, privileges, and powers conferred by law upon assistant attorneys general.

"(d) Nothing in this chapter limits the power of the state to punish any person for any conduct which otherwise constitutes a crime by statute or at common law.

"(e) The penalties prescribed in this chapter do not in any

manner limit the power of a legislative body to discipline its own members or to impeach public officials and do not limit the powers of agencies, department boards, or commissions to discipline their respective officials, members, or employees.

"(f) Each circuit court of this state shall have jurisdiction of all cases and actions relative to judicial review, violations, or the enforcement of this chapter, and the venue of any action pursuant to this chapter shall be in the county in which the alleged violation occurred, or in those cases where the violation or violations occurred outside the State of Alabama, in Montgomery County. In the case of judicial review of any administrative decision of the commission, the commission's order, rule, or decision shall be taken as prima facie just and reasonable and the court shall not substitute its judgment for that of the commission as to the weight of the evidence on questions of fact except where otherwise authorized by law.

"(g) Any felony prosecution brought pursuant to this chapter shall be commenced within four years after the commission of the offense.

"(h) Any misdemeanor prosecution brought pursuant to this chapter shall be commenced within two years after the commission of the offense.

"(i) Nothing in this chapter is intended to nor is to be construed as repealing in any way the provisions of any of the criminal laws of this state.

"§36-25-28.

"Nothing in this chapter shall be construed as to deprive any citizen, not lobbying, of the citizen's constitutional right to communicate with members of the legislature.

"§36-25-29.

"The legislature shall appropriate such sums as it deems necessary to implement the provisions of and administer this chapter.

"§36-25-30.

"This chapter shall be construed in pari materia with other laws dealing with the subject of ethics."

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. Section 36-25-25, Code of Alabama 1975, is repealed.

Section 4. This act, upon its passage and approval by the Governor, or upon its otherwise becoming a law, shall become effective on October 1, 1995. Notwithstanding the foregoing, the language amending Section 36-25-13 shall become operative one year after the passage and approval by the Governor of this act, or upon its otherwise becoming a law.

Section 5. Nothing in this act shall be applied retroactively after the passage and approval by the Governor of this act, or upon its otherwise becoming law, as to any action or inaction which occurred before the effective date of this act.

Approved June 19, 1995

Time: 10:00 A.M.

Act No. 95-195 H.J.R. 229 – Reps. Guin, Hogan

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF HERMAN WALTER MADDOX OF JASPER, ALABAMA.

WHEREAS, the Legislature of the State of Alabama, herein notes with sadness the passing of one of this State's great citizens, Herman Walter Maddox, on the 24th day of May, 1995; and

WHEREAS, Herman Walter Maddox performed invaluable service not only to his community but to all Alabamians over his lifetime, and his considerable influence in municipal government, education, and the savings and loan industry was invaluable in many critical situations; and

WHEREAS, a native of Sulligent, Alabama, he earned his undergraduate and LL.B. degrees from the University of Alabama, and was a member of Pi Kappa Phi social fraternity; and

WHEREAS, he served as Special Agent in the Federal Bureau of Investigation and contributed to the protection of some of this country's most vital secrets during World War II; and

WHEREAS, Herman Walter Maddox distinguished himself in his profession by holding virtually every office of the Walker County Bar Association, as well as through service as president of the Junior Bar Section of the Alabama State Bar (1949-50), and on the Alabama State Bar Board of Commissioners (1965-68); and

WHEREAS, he also distinguished himself in his community as a longtime member of the Jasper City Board of Education, as

Mayor of the City of Jasper for 12 years, as a Municipal Judge for the City of Jasper, in active service to the First Baptist Church of Jasper and various other civic organizations, and as a devoted husband and father; and

WHEREAS, further, in recognition of his strong leadership in education, the Middle School of the Jasper City School System was named in his honor; and

WHEREAS, Herman Walter Maddox indeed epitomized the image of public service, and was an outstanding leader who was ever ready to contribute to the needs of his neighbors and for the progress and betterment of his community, country, and state; and

WHEREAS, he was a genuine statesman whose life served as a worth example of those who are true to the instinct of their birth; faithful to the teachings of their fathers, and constant in their love for their state and country; and

WHEREAS, he was held in high esteem by his associates, loved by his friends, and respected by all; and his life reflected great honor not only to himself but to his community as well; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do hereby mourn the death of this great citizen, the Honorable Herman Walter Maddox of Jasper, Alabama, and extend our heartfelt sympathy to his family.

BE IT FURTHER RESOLVED, That copies of this resolution be provided for his daughters, Lisbeth Thornley and Carol Kilgore, that they may know of our shared sorrow, and high regard and esteem to his memory.

Approved June 19, 1995

Time: 10:05 A.M.

Act No. 95-196 H.J.R. 230 – Rep. Townsend

HOUSE JOINT RESOLUTION

COMMENDING WILLIAM HAWKINS OF GARDENDALE, ALABAMA.

WHEREAS, it is with highest commendation that the Alabama Legislature notes the distinguished career and contributions of William "Bill" Hawkins of Gardendale, Alabama, in more than 40 years of service to education and to his community; and

WHEREAS, a native of Etowah County, Alabama, Bill Hawkins received his B.S. degree from Jacksonville State University, earned his M.A. degree from Peabody College, and pursued additional studies at the University of Alabama, Birmingham; and

WHEREAS, he began his coaching career in 1951 at Sand Rock High School and, following call to active duty in the United States Navy, resumed his career in 1953, serving successively at Etowah County High School (1953-54), Collinsville High School (1955-56), Oneonta High School (1957-65), Scottsboro High School (1966-68), and Mortimer Jordan High School (1970-73); and from 1974-91 as supervisor of Driver Education for the Jefferson County Board of Education, during which he served as President of the Alabama Driver and Traffic Safety Association; and

WHEREAS, Coach Hawkins not only realized a number of outstanding career records and accomplishments over his successful tenure, including the DeKalb County Championship in 1956 while at Collinsville, a AA District 3 Championship in 1965 at Oneonta, a first trip to the playoffs for Mortimer Jordan, and service as head coach for the North Alabama All Stars in 1965 and 1974, but he also served as a worthy role model for the many young athletes who came under his tutelage; and

WHEREAS, Mr. Hawkins has also provided invaluable service to his community in such capacities as deacon of the First Baptist Church of Gardendale, as board member of the Birmingham Fellowship of Christian Athletes, and for a third term as a member of the Gardendale City Council; and

WHEREAS, Mr. Hawkins and his devoted wife, Louise, are the proud parents of two daughters, Delyn and Vickie; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding service to our youth and to the community, we hereby most highly commend William Hawkins of Gardendale, Alabama, for whom a copy of this resolution shall be provided.

Approved June 19, 1995

Time: 10:06 A.M.

Act No. 95-197 H. 114 – Reps. Hogan, Box

AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Bar Examiners.

Be It Enacted by the Legislature of Alabama:

Section 1. Pursuant to the Alabama Sunset Law, the Sunset Committee recommends the continuance of the Board of Bar Examiners.

Section 2. The existence and functioning of the Board of Bar Examiners, created and functioning pursuant to Section 34-3-2, Code of Alabama 1975, is continued, and that code section is expressly preserved.

Section 3. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1 and 2 of this act.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 19, 1995

Time: 1:45 P.M.

Act No. 95-198 H. 68 – Reps. Hawkins, Fuller

AN ACT

Relating to bicycle safety; to require helmet protection for certain persons riding on bicycles under certain conditions; and to provide for bicycle safety education, and supervision.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be known and may be cited as the "Brad Hudson-Alabama Bicycle Safety Act of 1995."

Section 2. As used in this act, the following words shall have the following meanings:

(1) BICYCLE. A human-powered vehicle with two wheels in tandem design to transport by the act of pedaling one or more persons seated on one or more saddle seats on its frame. "Bicycle" includes, but is not limited to, a human-powered vehicle designed to transport by the act of pedaling which has more than two wheels when the vehicle is used on a public roadway, public bicycle

path, or other public road or right-of-way, but does not include a tricycle.

(2) OPERATOR. A person who travels on a bicycle seated on a saddle seat from which that person is intended to and can pedal the bicycle.

(3) OTHER PUBLIC RIGHT-OF-WAY. Any right-of-way other than a public roadway or public bicycle path that is under the jurisdiction and control of the state or a local political subdivision thereof.

(4) PASSENGER. Any person who travels on a bicycle in any manner except as an operator.

(5) PROTECTIVE BICYCLE HELMET. A piece of headgear which meets or exceeds the impact standard for protective bicycle helmets set by the American National Standards Institute (ANSI) or the Snell Memorial Foundation, or which is otherwise approved by the Alabama Department of Public Safety.

(6) PUBLIC BICYCLE PATH. A right-of-way under the jurisdiction and control of the state, or a local political subdivision thereof, for use primarily by bicyclists and pedestrians.

(7) PUBLIC ROADWAY. A right-of-way under the jurisdiction and control of the state or a local political subdivision thereof for use primarily by motor vehicular traffic.

(8) RESTRAINING SEAT. A seat separate from the saddle seat of the operator of the bicycle or a bicycle trailer or similar product that is fastened securely to the frame of the bicycle and is adequately equipped to restrain the passenger in the seat and protect the passenger from the moving parts of the bicycle.

(9) TRICYCLE. A three-wheeled human-powered vehicle designed for use by a child under the age of six.

Section 3. The purpose of this act is to reduce the incidence of disability and death resulting from injuries incurred in bicycling accidents by requiring that, while riding on a bicycle on public roadways, public bicycle paths, or other public rights-of-way, all operators and passengers who are under 16 years of age to wear approved protective bicycle helmets, and by requiring that all bicycle passengers who weigh less than 40 pounds or are less than 40 inches in height be seated in separate restraining seats.

Section 4. It is unlawful for any person to use a bicycle on a public roadway, public bicycle path, other public rights-of-way, state, city, or county public park under any one of the following conditions:

(1) For any person under the age of 16 years to operate or be a passenger on a bicycle unless at all times the person wears a protective bicycle helmet of good fit, fastened securely upon the head with the straps of the helmet.

(2) For any person to operate a bicycle with a passenger who weighs less than 40 pounds or is less than 40 inches in height unless the passenger is properly seated in and adequately secured in a restraining seat.

(3) For any parent or legal guardian of a person under the age of 16 years to knowingly permit the person to operate or be a passenger on a bicycle in violation of subdivision (1) or (2) of this section.

Section 5. (a) A person regularly engaged in the business of renting bicycles shall require each person seeking to rent a bicycle to provide his or her signature either on the rental form or on a separate form indicating both of the following:

(1) Receipt of a written explanation of the provisions of this act and the penalties for violations.

(2) A statement concerning whether a person under the age of 16 years will operate the bicycle in an area where the use of a helmet is required.

(b) A person regularly engaged in the business of renting bicycles shall provide a helmet to any person who will operate the bicycle in an area requiring a helmet, if the person does not already have a helmet in his or her possession. A reasonable fee may be charged for the helmet rental.

(c) A person regularly engaged in the business of selling or renting bicycles who complies with this act shall not be liable in a civil action for damages for any physical injuries sustained by a bicycle operator or passenger as a result of the operator's or passenger's failure to wear a helmet or to wear a properly fitted or fastened helmet in violation of this act.

Section 6. It is the legislative intent to implement an effective statewide bicycle safety education program to reduce disability and death resulting from improper or unsafe bicycle operation. Violations of Section 4 of this act shall be handled in the following manner:

(1) On the first offense, the police officer shall counsel and provide written information to the child relative to bicycle helmet safety. The officer shall instruct the child to deliver the written information to the parent.

(2) On the second offense, the police officer shall counsel the child and provide written information on bicycle helmet safety. A warning citation shall be issued to the child to give to the parent. The citation shall instruct the parent or guardian to contact the police department for further information about the law and where to obtain a bicycle helmet.

(3) Beginning on July 1, 1996, upon a third offense, the police officer shall counsel the child, confiscate the bicycle, and take the child to his or her residence. The officer shall then return the bicycle and give a warning ticket to the parent or guardian. If the parent or guardian is unavailable, the ticket shall be left at the residence with instructions to the parent or guardian to pick up the bicycle at the police department.

(4) Beginning on July 1, 1996, upon a fourth offense, the police officer shall confiscate the bicycle, take the child to his or her residence, whereupon a citation for fifty dollars ($50) will be issued to the parent or guardian of the child. No court costs nor fees may be added to the fine or penalty. The fine or penalty shall be waived or suspended if the operator or passenger presents by the court date, proof of purchase or evidence of having provided a protective bicycle helmet or restraining seat and intends to use or causes to be used or intends to cause to be used the helmet as provided by law.

(5) Any fine or penalty monies shall be earmarked and used separately by the local school system for the purpose of safety education or the local municipality for the purchase of helmets for the financially disadvantaged.

(6) The Traffic Safety Center of the University of Montevallo, in conjunction with the Child Safety Institute at Children's Hospital of Alabama, shall furnish all materials, handouts, brochures, and other information related to bicycle safety used by police departments.

Section 7. A municipality may establish a more comprehensive bicycle safety program than that imposed by this act by local ordinance.

Section 8. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part.

Section 9. This act shall become effective 90 days from its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 19, 1995

Time: 1:46 P.M.

Act No. 95-199

H. 120 – Reps. Flowers, Sanderson, Box, Hooper, Layson, Hall (A), Hinshaw, Gaston, Wren, Guin, Black (M)

AN ACT

To amend Section 34-24-59, Code of Alabama 1975, relating to the reporting of physician disciplinary actions; to provide that the required report be made within 60 days of the initial action; to provide that failure on the part of a chief administrative officer to file a report required under this section shall authorize the State Board of Health to impose on any hospital found to be in violation of the reporting requirements of this section, a civil monetary penalty for each violation; and to provide that all monies collected pursuant to this section shall be retained by the Alabama Department of Public Health and may be expended for any legal purpose including operational expenses of the department.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 34-24-59, Code of Alabama 1975, is amended to read as follows:

"§34-24-59.

"(a) The chief administrative officer of each hospital shall report to the Alabama state board of medical examiners any disciplinary action taken concerning any physician when the action is related to professional ethics, medical incompetence, moral turpitude, or drug or alcohol abuse. Disciplinary action shall include termination, reduction, or resignation of hospital privileges for any of the above reasons. The report shall be in writing and be made within 60 days of the date of the initial action. Failure on the part of a chief administrative officer of a hospital required to file a report required under this section shall be a violation of §22-21-25(3), and the State Board of Health may, in its discretion, impose upon the hospital found to be in violation, a civil monetary penalty in an amount not to exceed two thousand five hundred dollars ($2,500.00) for each violation. All monies collected pursuant to this section shall be retained by the Alabama Department of Public Health and may be expended for any legal purpose including, but not limited to, operational expenses of the department.

"(b) Any professional society within this state comprised primarily of physicians, which takes formal disciplinary action against a member shall report the action to the Alabama state board of medical examiners, when the action taken is related to professional ethics, medical incompetence, moral turpitude, or drug or alcohol abuse. This report shall be in writing and made within 60 days of the action.

"(c) Any report made pursuant to this section shall be privileged from discovery and the individual making the report shall be immune from liability."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 19, 1995

Time: 1:50 P.M.

Act No. 95-200 S. 34 – Senator Freeman

AN ACT

Relating to Madison County; providing for an additional expense allowance and for the salary of the coroner.

Be It Enacted by the Legislature of Alabama:

Section 1. The Coroner of Madison County shall be entitled to an expense allowance in the amount of ten thousand dollars ($10,000) per annum, which shall be in addition to all other compensation or salary provided by law. This expense allowance shall be payable in equal monthly installments from the general fund of the county.

Section 2. Beginning with the expiration of the term of the incumbent coroner, the annual salary for the Coroner of Madison County shall be ten thousand dollars ($10,000) per annum, payable in equal monthly installments from the general fund of the county.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 19, 1995

Time: 1:52 P.M.

Act No. 95-201 H. 302 – Rep. Allen

AN ACT

Relating to Tuscaloosa County; amending Sections 1 and 2 of Act No. 81-936, H. 50, 1981 First Special Session, as amended, providing for the expense allowance and salary of the Sheriff of Tuscaloosa County.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 1 and 2 of Act No. 81-936, H.50, 1981 First Special Session, as amended, are amended to read as follows:

"Section 1. Commencing on the first day of the month immediately following the effective date of this act, the Sheriff of Tuscaloosa County shall receive an additional expense allowance in the amount of ten thousand dollars ($10,000) per annum, payable in equal monthly installments from the general fund of the county. The expense allowance shall be in addition to all other compensation, expense allowances, or benefits granted to the sheriff by law.

"Section 2. Beginning with the next term of office, the expense allowance paid to the sheriff as provided in Section 1 shall become null and void. In lieu thereof, the sheriff shall receive an additional salary in the amount of ten thousand dollars ($10,000) per annum, payable in equal monthly installments from the general fund of the county. The salary shall be in addition to all other compensation, expense allowances, or benefits granted to the sheriff by law."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 20, 1995

Time: 11:30 A.M.

Act No. 95-202 H. 1 – Rep. Dolbare

AN ACT

Relating to Washington County, requiring the Washington County Tax Collector to be responsible for all delinquent tax collections.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply only to Washington County.

Section 2. The procedure for collecting and the distribution of penalties for delinquent taxes in the county shall be the same as provided in Title 40 of the Code of Alabama 1975, except that all duties required and performed by the Judge of Probate shall be transferred and performed by the Tax Collector, and the Judge of Probate shall be relieved of all duties relating to delinquent tax collections.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are repealed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 20, 1995

Time: 11:31 A.M.

Act No. 95-203 H. 92 – Reps. Turnham, Johnson (R), Box

AN ACT

To provide for the return to service of persons retired from the Employees' Retirement System subject to certain limitations; to provide for certain retirees who are elected to public office to continue to draw certain benefits under certain conditions; to amend Section 16-25-1, Code of Alabama 1975, to provide further for definitions under the Teachers' Retirement System; to amend Section 16-25-20, Code of Alabama 1975, to provide for the investment advisor to the Board of Control of the Teachers' Retirement System; to amend Section 16-25-26, Code of Alabama 1975, to provide for the same return to service requirements under the Teachers' Retirement System provided for persons retired under the Employees' Retirement System; to amend Section 36-27-1, Code of Alabama 1975, to provide further for definitions under the Employees' Retirement System; and to amend Section 36-27-25, Code of Alabama 1975, to provide further for investments and the investment advisor for the Employees' Retirement System.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) It is lawful and permissible for any person who has retired under the Employees' Retirement System to perform duties in any capacity with any employer participating in the Employees' Retirement System or the Teachers' Retirement System without suspension of his or her retirement allowance; provided, that under no circumstances shall any retired person employed under the terms of this section be employed or contract for permanent full-time employment with any employer participating in the Employees' Retirement System or the Teachers' Retirement System; provided that the person is physically and mentally able to do so in the opinion of the employing authority and earn or receive remuneration in any form, including, but not limited to, wages, salary, expenses, other than reimbursement for expenses which are normally reimbursable employee expenses, consulting fees, or contract payments, not more than the base allowed under federal Social Security for a person age 67 as set from year to year without affecting his or her status under this act.

(b) Any person who has retired from the Employees' Retirement System may serve for compensation in an elected

public office with the state, a county, or an incorporated municipality if the public office is not covered by the Employees' Retirement System.

(c) The retired person shall continue to receive all retirement benefits that the retired person would receive if he or she was not employed subject to the limitations of this section.

(d) The responsibility for compliance with the provision of this section is placed upon the employing authority, and each employee employed under this section shall certify to the employer any information required in order to carry out this section.

(e) Any person retired from the Employees' Retirement System who is receiving a retirement allowance or optional benefit and who, in order to continue receiving his or her retirement allowance or optional benefit, waived his or her salary as an elected official pursuant to Section 36-6-10, Code of Alabama 1975, on or after October 24, 1994, and continued service in the elective office without compensation, may apply for and shall be reimbursed the total amount of the waived compensation and his or her salary shall be restored to the level of his or her salary prior to the waiver. Any person retired from the Employees' Retirement System who is receiving a retirement allowance or optional benefit and who, in order to continue receiving compensation for services as an elected or appointed official of the state, a county, or an incorporated municipality, suspended his or her retirement allowance or optional benefit on or after October 24, 1994, may apply for and shall be reimbursed the total amount of the suspended retirement allowance or optional benefit.

Section 2. Section 16-25-1, Code of Alabama 1975, is amended to read as follows:

"§16-25-1.

"For the purposes of this chapter the following terms, unless a different meaning is plainly required by the context, shall have the following respective meanings:

"(1) RETIREMENT SYSTEM. The teachers' retirement system of Alabama as defined in section 16-25-2.

"(2) PUBLIC SCHOOL. Any day school conducted within the state under the authority and supervision of a duly elected or appointed county or city board of education and any educational institution supported by and under the control of the state or any private nondenominational school operated nonprofit for the education of children of school age residing within a district where no public school is available for the children.

"(3) TEACHER. Any teacher, principal, superintendent, supervisor, college professor, administrative officer, or clerk employed in any public school or public college within the state or employed in any private nondenominational school operated nonprofit for the education of children of school age residing within a district where no public school is available for the children or any similar employee or officer of the department of education or of the Alabama education association, or any attendance worker 50 percent or more of whose salary is paid from public school funds or any employee receiving a regular stated compensation from the retirement system. In all cases of doubt, the board of control shall determine whether any person is a teacher as defined in this chapter.

"(4) SUPPORT PERSONNEL OR EMPLOYEE. Any maid, custodian, adult bus driver, lunchroom, or cafeteria worker, secretary, clerk, clerical assistant, maintenance worker, or other non-certificated employee who works an average of 20 hours weekly.

"(5) EMPLOYER. The state of Alabama, the county school board, the city school board, the state board of education, or any governing body of any private nondenominational school operated nonprofit for education of children of school age residing within a district where no public school is available for the children or any other agency of and within the state by which a teacher is paid.

"(6) MEMBER. Any teacher included in the membership of the system as provided in section 16-25-3.

"(7) BOARD OF CONTROL. The board provided for in section 16-25-19 to administer the retirement system.

"(8) MEDICAL BOARD. The board of physicians provided for in section 16-25-19.

"(9) TRUSTEES. The members of the board of control to administer the trust funds.

"(10) SERVICE. Service as a teacher.

"(11) PRIOR SERVICE. Service rendered prior to the date of establishment of the retirement system for which credit is allowable under section 16-25-11.

"(12) MEMBERSHIP SERVICE. Service as a teacher rendered while a member of the retirement system and on account of which contributions are made.

"(13) CREDITABLE SERVICE. "Prior service" plus "membership service" rendered since last becoming a member.

"(14) BENEFICIARY. Any person in receipt of a pension, an annuity, a retirement allowance, or other benefit as provided by this chapter.

"(15) REGULAR INTEREST. Interest compounded annually at the rate determined by the board of control in accordance with subsection (b) of section 16-25-20.

"(16) ACCUMULATED CONTRIBUTIONS. The sum of all the amounts deducted from the compensation of a member and credited to his or her individual account in the annuity savings fund together with regular interest thereon as provided in section 16-25-21.

"(17) EARNABLE COMPENSATION. The full rate of the compensation that would be payable to a teacher if he or she worked the full normal working time. In cases where compensation includes maintenance, the board of control shall fix the value of that part of the compensation not paid in money. Earnable compensation shall not exceed the limitations imposed by §401(a)(17) of the Internal Revenue Code for public pension funds except that any employee who was a member of the Teachers' Retirement System before the first plan year beginning after December 31, 1995, shall not be subject to the earning limitations set forth in §401(a)(17).

"(18) AVERAGE FINAL COMPENSATION. The average annual compensation of a teacher, with respect to which he or she has made contributions pursuant to paragraph b of subdivision (1) of section 16-25-21 during the three years in his or her last 10 years of creditable service for which the average is highest or during his or her entire period of creditable service if less than three years; except, that for any period prior to October 1, 1959, the compensation used in computing the average shall include compensation in excess of the maximum amount with respect to which members were required to contribute.

"(19) ANNUITY. Payments for life derived from the "accumulated contributions" of a member. All annuities shall be payable in equal monthly installments.

"(20) PENSION. Payments for life derived from money provided by the employer. All pensions shall be payable in equal monthly installments.

"(21) RETIREMENT ALLOWANCE. The sum of the "annuity" and the "pension."

"(22) RETIREMENT. Withdrawal from active service with a retirement allowance or optional benefit in lieu thereof granted under this chapter.

"(23) ANNUITY RESERVE. The present value of all payments to be made on account of any annuity or benefit in lieu of any annuity, computed upon the basis of the mortality tables as shall be adopted by the board of control, and regular interest.

"(24) PENSION RESERVE. The present value of all payments to be made on account of any pension or benefit in lieu of any pension, computed upon the basis of the mortality tables as shall be adopted by the board of control, and regular interest.

"(25) ACTUARIAL EQUIVALENT. A benefit of equal value, when computed upon the basis of the mortality tables as shall be adopted by the board of control, and regular interest.

"(26) NORMAL CONTRIBUTION. The contributions of the state necessary to provide a pension equal to the annuity which the member's contribution made prior to age 65 with interest will provide at age of retirement not to exceed 65."

Section 3. Section 16-25-20, Code of Alabama 1975, is amended to read as follows:

"§16-25-20.

"(a)(1) The Board of Control shall be the trustees of the several funds of the Teachers' Retirement System created by this chapter as provided in Section 16-25-21, and shall have full power to invest and reinvest the funds, through its secretary-treasurer, in the classes of bonds, mortgages, common and preferred stocks, shares of investment companies or mutual funds, or other investments as the Board of Control may approve, with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with the matters would use in the conduct of an enterprise of a like character and with like aims; and, subject to like terms, conditions, limitations, and restrictions, the Board of Control, through its secretary-treasurer, shall have full power to hold, purchase, sell, assign, transfer, and dispose of any investments in which the funds created herein shall have been invested, as well as the proceeds of the investments and any moneys belonging to the funds.

"(2) The secretary-treasurer shall have the authority and it shall be his or her duty to carry out the investment policies fixed by the Board of Control, and pursuant thereto he or she shall examine all offers of investments made to the funds, shall initiate inquiries as to available investments therefor, shall review periodically the investment quality and desirability of retention of investments held, and shall make purchases and sales of investments as he or she shall deem to the best interests of the funds and as the investment committee hereinafter provided for, and as

the consultant to the secretary-treasurer, if any, appointed by the Board of Control hereunder, to the extent of the purpose for which it is appointed, shall approve. The Teachers' Retirement System shall have full authority to employ its own legal counsel and to conduct and control any litigation in which it is involved through such counsel.

"(3) The Board of Control shall elect an investment committee which shall consist of three members of the board, one of whom shall be the director of finance. The investment committee shall act as agent for the board and shall consider all investment recommendations made by the secretary-treasurer and shall either approve or disapprove the same in accordance with policies set by the board. The investment committee may act through the affirmative vote of any two of its members. Approvals may be secured informally in advance but shall in any event be confirmed by written authorization to be attached to the invoice of the transaction.

"(4) The Board of Control may appoint and employ as consultant to the secretary-treasurer, in the purchase, sale, and review of investments of the funds, to the extent the board may designate, a bank having its principal office in the State of Alabama, having capital, surplus, and undivided profits of not less than three hundred million dollars ($300,000,000), and having an organized investment department. The bank so appointed shall not sell securities to the retirement system, other than United States government securities, or repurchase agreements for which no commission shall be charged.

"(5) The secretary-treasurer shall report to the Board of Control all purchases and sales of investments made by him or her pursuant hereto at least once semiannually.

"(b) The Board of Control shall allow annually regular interest on the mean amount for the preceding year in each of the funds, with the exception of the expense fund. The amounts so allowed shall be due and payable to the funds and shall be credited annually thereto by the Board of Control from interest and other earnings on the moneys of the retirement system. Any additional amount required to meet the interest on the funds of the retirement system shall be paid from the pension accumulation fund, and any excess of earnings over the amount required shall be paid to the pension accumulation fund. Regular interest shall mean the percent rate or rates to be compounded annually as shall be set by the Board of Control, the rate or rates to be limited to a minimum of three percent and a maximum of four and three-fourths percent.

"(c) Moneys accruing to the annuity savings fund, the annuity reserve fund, the pension accumulation fund, and the pension

reserve funds shall be certified by the secretary-treasurer for deposit in the State Treasury to the credit of the Teachers' Retirement System. All moneys provided in accordance with this chapter for administrative expense shall be certified for deposit in the State Treasury to the credit of the Teachers' Retirement System expense fund. All payments from the funds shall be made by the State Treasurer on warrants drawn by the State Comptroller upon vouchers signed by two persons designated by the Board of Control. A duly attested copy of a resolution of the Board of Control designating the persons and bearing on its face specimen signatures of the persons shall be filed with the State Comptroller as his or her authority for drawing warrants upon the vouchers.

"(d) Except as otherwise herein provided, no member of the Board of Control and no employee of the board shall have any direct interest in the gains or profits of any investment made by the board, nor as such receive any pay or emolument for his or her services. No member or employee of the Board of Control shall, directly or indirectly, for himself or herself or as an agent, in any manner use the same, except to make the current and necessary payments as are authorized by the board; nor shall any member or employee of the Board of Control become an endorser or surety or in any manner an obligor for moneys loaned or borrowed from the board."

Section 4. Section 16-25-26, Code of Alabama 1975, is amended to read as follows:

"§16-25-26.

"(a) It is lawful and permissible for any person who has retired under this chapter to perform duties in any capacity with any employer participating in the Employees' Retirement System or the Teachers' Retirement System; provided, that under no circumstances shall any retired person employed under the terms of this section be employed or contract for employment in a permanent full-time capacity with any employer participating in the Teachers' Retirement System or the Employees' Retirement System; provided, that the person is physically and mentally able to do so in the opinion of the employing authority and earn or receive remuneration in any form, including but not limited to, wages, salary, expenses, other than reimbursement for expenses which are normally reimbursable employee expenses, consulting fees, or contract payments, not more than the base allowed under federal social security for a person age 67 as set from year to year without affecting his or her status under this chapter.

"(b) Any person who has retired from the Teachers' Retirement System may serve for compensation in an elected public office with

the state, a county, or an incorporated municipality if the public office is not covered by the Teachers' Retirement System.

"(c) The retired person shall continue to receive all retirement benefits that the retired person would receive if he or she were not employed subject to the limitations of this section.

"(d) The responsibility for compliance with this section is placed upon the employing authority, and each person employed under this section shall certify to the employer any information required in order to carry out this section."

Section 5. Section 36-27-1, Code of Alabama 1975, is amended to read as follows:

"§36-27-1.

"When used in this article, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

"(1) RETIREMENT SYSTEM. The employees' retirement system of Alabama as defined in section 36-27-2.

"(2) EMPLOYEE. Any regular employee of the state of Alabama whose salary is paid by state warrant by the state, except a member of the legislature of the state, a person who is covered or eligible to be covered under the teachers' retirement system of Alabama or any other retirement system to which contributions are made by the state, an elective official of the state government, and a temporary employee or person engaged under retainer or special agreement. In all cases of doubt the board of control shall determine who is an employee within the meaning of this article. The term shall include any regular employee of the Alabama state hospitals and Partlow State School and Hospital and the Alabama state docks department, however paid.

"(3) EMPLOYER. The state of Alabama or any department, commission, institution, or any other agency of and within the state by which an employee is paid, including employers as provided in section 36-27-6.

"(4) MEMBER. Any employee included in the membership of the system as provided in section 36-27-4.

"(5) BOARD OF CONTROL. The board provided for in section 36-27-23 to administer the retirement system.

"(6) MEDICAL BOARD. The board of physicians provided for in section 36-27-23.

"(7) SERVICE. Service as an employee paid for by an employer.

"(8) PRIOR SERVICE. Service rendered prior to the date of establishment of the retirement system for which credit is allowable under section 36-27-11.

"(9) MEMBERSHIP SERVICE. Service as an employee rendered while a member of the retirement system and on account of which contributions are made.

"(10) CREDITABLE SERVICE. "Prior service" plus "membership service" rendered since last becoming a member.

"(11) BENEFICIARY. Any person in receipt of a pension, an annuity, a retirement allowance or other benefit as provided by this article.

"(12) REGULAR INTEREST. Interest compounded annually at the rate determined by the board of control in accordance with subsection (f) of section 36-27-25.

"(13) ACCUMULATED CONTRIBUTIONS. The sum of all the amounts deducted from the compensation of a member credited to his or her individual account in the annuity savings fund, together with regular interest thereon, as provided in section 36-27-24.

"(14) EARNABLE COMPENSATION. The full rate of compensation that would be payable to an employee if he or she worked the full normal work-time. In cases where compensation includes maintenance, the board of control shall fix the value of that part of the compensation not paid in money. Earnable compensation shall not exceed the limitations imposed by §401(a)(17) of the Internal Revenue Code for public pension funds, except that any employee who was a member of the Employees' Retirement System before the first plan year beginning after December 31, 1995, shall not be subject to the earning limitations set forth in §401(a)(17).

"(15) AVERAGE FINAL COMPENSATION. The average annual compensation of an employee, with respect to which he or she had made contributions pursuant to subsection (b) of section 36-27-24 during the three years, in his or her last 10 years of creditable service for which the average is highest or during his or her entire period of creditable service if less than three years; except, that for any period prior to November 1, 1959, the compensation used in computing the average shall include compensation in excess of the maximum amount with respect to which members were required to contribute.

"(16) ANNUITY. Payments for life derived from the "accumulated contributions" of a member. All annuities shall be payable in equal monthly installments.

"(17) PENSION. Payments for life derived from money provided by the employer. All pensions shall be payable in equal monthly installments.

"(18) RETIREMENT ALLOWANCE. The sum of the "annuity" and the "pension."

"(19) RETIREMENT. Withdrawal from active service with a retirement allowance or optional benefit in lieu thereof granted under this article.

"(20) ANNUITY RESERVE. The present value of all payments to be made on account of any annuity or benefit in lieu of any annuity computed upon the basis of the mortality tables adopted by the board of control and regular interest.

"(21) PENSION RESERVE. The present value of all payments to be made on account of any pension or benefit in lieu of any pension computed upon the basis of the mortality tables adopted by the board of control and regular interest.

"(22) ACTUARIAL EQUIVALENT. A benefit of equal value when computed upon the basis of the mortality tables adopted by the board of control and regular interest.

"(23) STATE POLICEMAN. An employee in the classified service under the Merit System Act approved by the personnel board to perform the duties of highway patrolman or a beverage control agent or a crime investigator. The term shall not include a member employed as a policeman under section 36-27-6."

Section 6. Section 36-27-25, Code of Alabama 1975, is amended to read as follows:

"§36-27-25.

"(a) The Board of Control shall be the trustees of the several funds of the Employees' Retirement System created by this article as provided in Section 36-27-24 and shall have full power to invest and reinvest the funds, through its Secretary-Treasurer in the classes of bonds, mortgages, common and preferred stocks, shares of investment companies or mutual funds, or other investments as the Board of Control may approve, with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. Subject to like terms, conditions, limitations and restrictions, the Board of Control, through its Secretary-Treasurer, shall have full power to hold, purchase, sell, assign, transfer, and dispose of any investments in which the funds

created in Section 36-27-24 shall have been invested as well as the proceeds of the investments and any moneys belonging to the funds.

"(b) The Governor ex officio, shall be the chair of the Board of Control. At the board meeting when the new positions created by Acts 1994, No. 94-616 are sworn into office, the Board of Control shall elect from its membership a vice-chair who shall have at least three years of service experience on the board. The vice-chair shall serve a term concurrent with that of the position of Investment Committee Place No. 1.

"(c) The Secretary-Treasurer shall have the authority and it shall be his or her duty to carry out the investment policies fixed by the Board of Control and, pursuant thereto, he or she shall examine all offers of investments made to the funds, shall initiate inquiries as to available investments therefor, shall review periodically the investment quality and desirability of retention of investments held and shall make purchases and sales of investments as he or she shall deem to the best interests of the funds and as the Investment Committee provided for in subsection (d) of this section and as the consultant to the Secretary-Treasurer, if any, appointed by the Board of Control under subsection (e) of this section, to the extent of the purpose for which it is appointed, shall approve. The Employees' Retirement System shall have full authority to employ its own legal counsel and to conduct and control any litigation in which it is involved through such counsel.

"(d) The Board of Control shall provide for an investment committee which shall consist of three members of the board, one of whom shall be the Director of Finance. At the first board meeting held after April 26, 1994, two members of the board, who individually have at least three years of service experience on the board, shall be elected to serve on the Investment Committee in positions designated as Places No. 1 and No. 2. The person elected to serve in Place No. 1 shall serve for an initial term of one year while the person elected to serve in Place No. 2 shall serve for an initial term of two years. Successor terms for both places on the committee shall be for two years and successor candidates for the elected places shall meet the aforementioned board service experience requirement. The Investment Committee shall act as agent for the board and shall consider all investment recommendations made by the Secretary-Treasurer and shall either approve or disapprove the same in accordance with policies set by the board. The Investment Committee may act through the affirmative vote of any two of its members. Approvals may be secured informally in advance but shall in any event be confirmed by written authorization to be attached to the invoice for the transaction.

"(e) The Board of Control may appoint and employ as consultant to the Secretary-Treasurer in the purchase, sale, and review of investments of the funds, to the extent as the board may designate, a bank having its principal office in the State of Alabama, having capital, surplus and undivided profits of not less than three hundred million dollars ($300,000,000) and having an organized investment department. The bank so appointed shall not sell securities to the retirement system other than U.S. government securities, or repurchase agreements for which no commission shall be charged.

"(f) The Secretary-Treasurer shall report to the Board of Control all purchases and sales of investments made by him or her pursuant to this section at least once semiannually.

"(g) The Board of Control shall allow annually regular interest on the mean amount for the preceding year in each of the funds, with the exception of the expense fund. The amounts so allowed shall be due and payable to the funds and shall be credited annually to the funds by the board of control from interest and other earnings on the moneys of the retirement system. Any additional amount required to meet the interest on the funds of the retirement system shall be paid from the pension accumulation fund, and any excess of earnings over the amount required shall be paid to the pension accumulation fund. Regular interest shall mean the percentage rate or rates to be compounded annually as shall be set by the Board of Control, the rate or rates to be limited to a minimum of three percent and a maximum of four and three-fourths percent.

"(h) Funds accruing to the Annuity Savings Fund, the Annuity Reserve Fund, the Pension Accumulation Fund, and the Pension Reserve Fund shall be certified by the Secretary-Treasurer for deposit in the state treasury to the credit of the Employees' Retirement System. All moneys provided in accordance with this chapter for administrative expenses shall be certified for deposit in the State Treasury to the credit of the Employees' Retirement System Expense Fund. All payments from the funds shall be made by the State Treasurer on warrants drawn by the State Comptroller upon vouchers signed by two persons designated by the Board of Control. A duly attested copy of the resolution of the Board of Control designating the persons and bearing on its face specimen signatures of the persons shall be filed with the State Comptroller as his or her authority for drawing warrants upon the voucher.

"(i) Except as otherwise provided in this article, no member of the Board of Control and no employee of the board shall have any

direct interest in the gains or profits of any investment made by the board nor as such receive any pay or emolument for his or her services. No member or employee of the Board of Control shall, directly or indirectly, for himself or herself or as an agent in any manner use the same, except to make the current and necessary payments authorized by the board, not shall any member or employee of the Board of Control become an endorser or surety or in any manner an obligor for moneys loaned to or borrowed from the board."

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 20, 1995

Time: 11:32 A.M.

Act No. 95-204 H. 284 – Rep. Gipson

AN ACT

Relating to Autauga County; relating to the compensation and expense allowance for the Sheriff of Autauga County; so as to further provide for an additional expense allowance and expiration date therefor and the sheriff's compensation in the next term of office of the sheriff.

Be It Enacted by the Legislature of Alabama:

Section 1. The Sheriff of Autauga County shall receive an additional expense allowance of thirteen thousand dollars ($13,000) per annum, payable in equal monthly installments. Said expense allowance shall be in addition to all other compensation, expense allowances for benefits granted to the sheriff.

Section 2. Beginning with the next term of office, the expense allowance paid to the sheriff as provided in Section 1 shall be null and void. In lieu thereof the sheriff shall receive an additional compensation of thirteen thousand dollars ($13,000) per annum. Said compensation shall be in addition to all other compensation, expense allowances or benefits received.

Section 3. This shall shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 20, 1995

Time: 11:33 A.M.

Act No. 95-205 H. 485 – Rep. Clouse

AN ACT

To alter, rearrange, and extend the boundary lines and corporate limits of the City of Ozark in Dale County.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the City of Ozark in Dale County are altered, rearranged, and extended to include within the corporate limits of the city, in addition to the lands now included, all of the following territory:

EXHIBIT "R"

Beginning at a point on the present boundary line of the Corporate Limits of the City of Ozark, Dale County, Alabama at the northwest corner of the E1/2 of SW1/4 of NE1/4, Sec. 16, TSN, R24E, Dale County, Alabama and running thence N 89°49'35"W 646.49 feet along the north line of said forty to the northwest corner of the forty; thence S 0°24'51"E 1341.09 feet along the west line of the forty to its southwest corner; thence N 89°58'02"W 647.74 feet along the south line of the SE1/4 of NW1/4, Sec. 16 to the southwest corner of the E1/2 of the forty; thence N 0°21'37"W 1342.67 feet along the west line of the E1/2 to the north line of the forty; thence N 89 49'35"W 1939.47 feet along the north line of the S1/2 of NW1/4, Sec. 16 to the west line of the section; thence S 0 11'58"E 4042.25 feet along the west line to the southwest corner of the section; thence N 88°56'17"W 1710.00 feet along the south line of Sec. 17, T5N, R24E to a point; thence N 1°19'34"E 1400.00 feet to a point; thence N 58°41'08"W 3920.43 feet to a point on the south line of N1/2 of SW1/4 of NW1/4, Sec. 17; thence N 88°51'12"W 285.00 feet along the said south line to the west line of Sec. 17 and the tie of the line to the present line of the Ozark Corporate City Limits; thence N 0°00'23"E 675.23 feet along the present corporate limits and along the west line of the forty to the northwest corner of the forty; thence S 88°50'11"E 3973.89 feet to the southwest corner of NE1/4 of NE1/4, Sec. 17; thence N 0°08'53"W 674.09 feet along the west line of the forty to the northwest corner of S1/2 of the forty; thence S 88°49'09"E 1324.03 feet along the north line of the S1/2 to the section line; thence N 0 48'02"W 403.25 feet along the west line of Sec. 16, T5N, R24E to a point that is 250 feet parallel to the south right-of-way of Campground Road; thence N 87°59'19"E 1295.73 feet of a line 250 feet parallel to said road to the west forty line of the NE1/4 of NW1/4, Sec. 16, T5N, R24E; thence S 0°18'24"E 96.55 feet along said west forty line; thence N 89°27'14"E 637.61 feet to a point;

thence S 2°40'14"E 65.98 feet to a point; thence N 88°44'00"E 210.38 feet to a point; thence N 88°44'00"E 210.38 feet to a point; thence N 2°57'04"E 75.50 feet to a point; thence N 88°35'40"E 436.05 feet to the east line of said forty; thence S 0 24'51"E 42.08 feet along said forty line to a point that is 250 feet parallel to the south right-of-way of Campground Road; thence a chord bearing of S 53°42'06"E 1055.71 feet of a line that is 250 feet parallel to said road to a point; thence S 43°33'12"W 210.00 feet to a point; thence S 46°26'48"E 210.00 feet to a point; thence S 43°33'12"W 142.03 feet to the north forty line of the SW1/4 of NE1/4, Sec. 16, T5N, R24E; thence N 89°49'35"W 106.60 feet along the north forty line to the point of beginning. The herein described property being the SW1/4 of NW1/4 and a part of the NW1/4 of NW1/4, NE1/4 of NW1/4, SE1/4 OF NW1/4 and the NW1/4 of NE/1/4, Sec. 16 and being the N1/2 of NE1/4, NE1/4 of SE1/4, SE1/4 OF SE1/4 and a port of the NE1/4 of NE1/4, NW1/4 of SE1/4, SW1/4, SE1/4 OF NW1/4, NE1/4 OF SW1/4 AND SW1/4 OF NW1/4, Sec. 17, T5N, R24E, Dale County, Alabama and containing 405 acres more or less. This description was written from a digitized tax map and does not represent an actual survey and should not be used for individual property conveyance.

Section 2. In accordance with Section 11-42-6 (b) of the Code of Alabama 1975, a map showing what territory is proposed to be annexed to the City of Ozark is on file in the office of the Judge of Probate in Dale County, Alabama, and the map is open to the inspection of the public.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 20, 1995

Time: 11:34 A.M.

Act No. 95-206 H. 486 – Rep. Allen

AN ACT

To repeal Act No. 323, H. 514, 1975 Regular Session, relating to compensation increases for certain employees of the Sheriff's Department in Tuscaloosa County.

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 323, H. 514, 1975 Regular Session (Acts 1975, p. 855), relating to compensation increases for certain employees of the Sheriff's Department of Tuscaloosa County is repealed.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 20, 1995

Time: 11:35 A.M.

Act No. 95-207 H. 497 – Rep. Black (M)

AN ACT

Relating to the City of Muscle Shoals in Colbert County; establishing a civil service system and providing for classified services; establishing a personnel board and providing for the appointment, term, and powers of board members; providing for the establishment of a register and filling of vacancies; and providing for penalties.

Be It Enacted by the Legislature of Alabama:

Section 1. Application.

This act shall apply only in the City of Muscle Shoals and to covered individuals, as defined in Section 2, employed in the Office of the City Clerk, the Police Department, and the Fire Department.

Section 2. Covered Individuals.

Any individual, including the head of a department, employed in the service of the City in a department, pursuant to Section 1, on a regular basis for at least 32 hours in his or her established workweek or the equivalent hours for a public safety individual who is assigned to work a work period pursuant to the Fair Labor Standards Act shall be covered by this act and the rules and regulations adopted by the city council to implement this act.

Those individuals employed by the city on the effective date of this act who have previously completed the required probationary period and granted standing in the civil service system in accordance with Act No. 494, H. 1017 of the 1978 Regular Session (Acts 1978, p. 546) shall be employees in the covered service established pursuant to this act and shall be awarded regular status in the service. Those individuals who are currently employed in the city service as civil service employees in accordance with Act No. 494, H. 1017 of the 1978 Regular Session (Acts 1978, p. 546) on the effective date of this act but have not completed the probationary period required by this act shall be required to complete the requirements pursuant to this act before being granted regular status in this service. The individuals shall be given credit for their previous service to determine eligibility for being designated regular status employees in this service.

Individuals employed by the city in temporary or part-time positions, as defined in Section 3, shall not be covered by this act. The conditions of employment for the individuals shall be established by the mayor and the city council. Temporary and part-time individuals may not be moved directly into the service as established by this act, but they may apply, along with other noncovered individuals, for any vacancy which exists in the service.

Section 3. Definitions.

As used in this act, unless the context indicates otherwise, the following words, terms, and phrases shall have the meanings ascribed to them:

(1) APPOINTING AUTHORITY. The City Council of the City of Muscle Shoals as established by state law, city ordinance, or other legal requirement.

(2) BOARD. The Civil Service Board created by this act.

(3) CITY. The City of Muscle Shoals, Alabama.

(4) HEAD OF DEPARTMENT. Any individual designated by the city council as head of a major activity or department to which this act applies, including the chief of the police department, chief of the fire department, and the city clerk.

(5) PART-TIME EMPLOYMENT. That category of service in which the individuals are employed on an on-going basis but are normally scheduled to work less than 32 hours in their established workweek, or the equivalent hours for those public safety individuals who are assigned to work a work period in accordance with the Fair Labor Standard Act.

(6) PROBATIONARY STATUS. A condition of employment that covered employees serve until they have completed the established probationary period and have been approved for regular status by the appointing authority.

(7) PROMOTION. The advancement of a covered employee to a higher job class involving a definite and defined increase in duties and responsibilities and a corresponding increase in renumeration.

(8) REGULAR STATUS. A condition of employment that covered employees are afforded upon their completion of the established probationary period and approval by the appointing authority.

(9) TEMPORARY EMPLOYMENT. The category of service in which the individuals are employed in either full-time or less than full-time positions for a period of no more than 180 calendar days. If warranted, employment in the temporary service may be

extended by the appointing authority of the individual for an additional 90 calendar days.

(10) VETERAN. Any person, male or female, who served on active duty, whether commissioned, enlisted, inducted, appointed, or mustered into the military or naval service of the United States during any military conflict in which the United States has been engaged or may engage in, and who shall have been discharged or released from the services under conditions other than dishonorable.

A veteran and the widow of a veteran shall have five points added to his or her grade. Any veteran who is drawing compensation shall have five points added to his or her grade. Any veteran who is drawing compensation from the United States because of a service-connected disability shall have 10 points added to his or her grade.

(11) WORK PERIOD. The period of time established by the city for public safety employees in accordance with the Fair Labor Standards Act (FLSA).

(12) WORKWEEK. A seven calendar-day period as established in accordance with the Fair Labor Standards Act (FLSA).

Section 4. Civil Service System.

All covered employees of the City of Muscle Shoals Civil Service System shall be subject to this act and the rules and regulations prescribed in or promulgated pursuant to this act.

All implementing rules and regulations shall be approved by the city council, based upon applicable state and federal laws, and shall provide for examinations and appointments of new employees, promotions, lateral transfers, separation, disciplinary actions to include suspensions, demotion, and dismissals, layoffs, leaves of absence with pay, leaves of absence without pay, and all other matters determined by the city council to be required to effectively implement the intent of this act. All approved implementing rules and regulations shall govern. The city council shall cause the approved rules and regulations and other components of the established Civil Service System to be reviewed and recommend changes prepared for approval as needed to keep the system responsible to the needs of the city to meet all legal requirements, and to implement the intent of this act.

The mayor shall develop and submit to the city council for approval all of the following:

(1) Job descriptions for the types of service to be performed in the departments of the city that are representative of the duties,

activities, and qualifications, to include those of character, education, training, and experience for the appointees of each job class.

(2) A recommended classification plan which shall be based upon job evaluation principles.

(3) A recommended pay plan which provides minimum and maximum compensation ranges for the pay grade levels established in the approved classification plan.

Present employees determined to be regular status covered employees in accordance with this act and those who may hereafter be employed in the covered service and designated as regular status employees shall remain in their respective employments during good behavior, efficiency, availability of funds, need as determined by the city council, and obedience to this act and the implementing rules and regulations prescribed and promulgated in accordance with this act. No present covered employee shall be subject to any examination in order to hold his or her present position of employment. This act shall not be construed to prevent or preclude the removal of any employee, regardless of employment status for cause in the manner hereinafter provided.

Except in connection with a reduction in force, demotion, suspension, or a general decrease in the salary of all covered employees in any one department, no regular salary or compensation of a covered employee may be reduced without the approval of the board. In the event a reduction in force becomes necessary in any department, the order of layoff shall be inverse to the order of appointment.

Section 5. Civil Service Board.

Upon the effective date of this act, the current civil service board shall be dissolved and a new Civil Service Board of Muscle Shoals shall be created. The new board shall be composed of five members designated respectively as Member No. 1, Member No. 2, Member No. 3, Member No. 4, and Member No. 5. Each member shall be of recognized good character and ability, and a resident and a qualified elector of the city. No person shall be eligible for membership on the board who holds any civil office of profit under the city, county, or state. No employee or official of the City of Muscle Shoals shall serve as a member of this board.

The members of the board shall be appointed as follows:

1. Member No. 1 shall be appointed by the mayor and city council.

2. Members No. 2, 3, and 4 shall be the members of the current Civil Service Board, who shall serve in the order of their original

appointment to the current board in positions numbered 2, 3, and 4 respectively.

3. Member No. 5 shall be elected by the employees of the city covered by this act pursuant to guidelines established by the mayor and city council.

The terms shall be staggered and the initial terms of the members of the board shall be as follows: Member No. 1 shall be appointed for an initial term of 1 year. Members No. 2 and 3 shall be appointed for an initial term of two years. Members No. 4 and 5 shall be appointed for an initial term of three years. Thereafter, as the term of each member shall expire, the proper appointing body shall appoint the successor to a term of three years. Vacancies shall be filled by the proper appointing body for the unexpired term.

Any member of the board may be terminated by the majority vote of the mayor and city council when his or her service to the board, including excessive absenteeism or personal conduct, is considered to be detrimental to the effectiveness or reputation of the board or city. The mayor and city council may initiate termination action or may react in response to a written request from the majority of the board members when they deem the action is warranted. Specific administrative procedures to accomplish termination action shall be included in the adopted rules and regulations.

The board shall meet at least once a month or as often as necessary in the municipal building or at another convenient place designated by the board on a date and at an hour to be fixed by its rules and regulations. Three members of the board shall constitute a quorum. The board shall annually elect one of its members as chair.

Every person appointed to the board shall within 15 days after his or her appointment qualify by making written oath that he or she is eligible for the office and that he or she will faithfully perform the duties of the office. The oath shall be administered by a person authorized to administer oaths with a copy filed with the city clerk.

Section 6. Compensation.

The compensation of each board member shall be four hundred dollars ($400) per annum, payable quarterly by the city.

Section 7. Records of the Board.

The board shall keep minutes of its meetings and a record of all business transacted by it. Its records, except those which the

rules of the board require to be held confidential for reasons of public policy, shall be open for inspection by any resident of the city at all reasonable times upon reasonable request. The city shall furnish clerical assistance as needed by the board and shall act as the custodian of the records of the board.

Section 8. New Appointments.

If a vacancy in the service is not filled by promotion or lateral assignment of a covered employee, the mayor shall notify the board of the vacancy and request that names be furnished the appointing authority from the proper eligibility list. The vacancy shall then be filled by the appointing authority through a new appointment.

The board shall make and keep sufficient lists of all persons eligible and available for appointment as it determines necessary. All appointments not filled by promotion or lateral transfer shall be made from the eligibility list. In no event shall a new appointment be made from an eligibility list which is more than six months old. The board shall conduct examinations to test the ability and qualifications of the applicants. Examinations shall be competitive, open to all qualified applicants, and subject to the limitations specified by the board. The board or its designated representative shall conduct all examinations. The board shall notify the applicants of the date and time of the examinations. Examinations shall be practical in character and shall relate to those matters which test the ability of the person examined to intelligently discharge the duties of the position for which he or she applies. The board shall not examine any person who has been convicted of a felony or an offense involving moral turpitude.

Persons laid off and who are eligible and available for reemployment shall be placed on the proper eligibility list, in the inverse order of their layoff for a period of one year after the effective date of their layoff, provided they request this consideration in writing to the board.

The board shall furnish to the appointing authority the names, addresses, applications, and other information pertaining to the qualifications of the five applicants standing highest on the eligibility list in alphabetical order.

Within 28 days from the receipt of the list of eligible applicants, the city council of the city shall appoint one of the applicants to fill the vacancy. In the event that the city council fails to appoint one of the applicants from the list of eligible applicants and the failure is the result of a tie vote concerning the appointment of one of the applicants, then the mayor shall notify the

board of the failure and the board shall furnish the next five names from existing eligibility lists from which the city council shall make the appointment.

Section 9. Promotions.

The head of a department shall recommend for promotion persons to fill any vacancies that may occur in his or her department. All promotions shall be made by the board. The board shall make rules and regulations relating to eligibility for promotion. The board shall submit rules and regulations to the city council for approval, at which time they shall be open to amendment and final ratification.

Section 10. Appointments to Department Head Vacancies.

The mayor and city council shall fill all head of department vacancies in the city. The head of department vacancies include the chief of police, chief of the fire department, the city clerk, and the head of each department shall come under this act. The city council shall establish administrative guidelines relating to eligibility for appointment to a head of department position. The guidelines shall be incorporated into those rules and regulations adopted to implement this act.

Section 11. Probationary Status.

All appointments, including new appointments, promotions, and lateral transfers to covered vacant positions, including head of department positions, shall be on a probationary basis for a period of six months from the date of appointment. For those positions in which the individual is required to meet the State minimum standards, such as police officers and firefighters, the probationary period shall conclude upon fulfillment of the standards or the six months, whichever is later. Before the expiration of the probationary period, the head of the department may, with the consent of the mayor, discharge the probationary employee. Regular status covered employees who have laterally transferred or who were promoted, including assignment to a head of department position shall be returned to their previous job or a similar job if their board is actively seeking applications. Application forms shall be furnished by the board.

All applications from regular status employees for promotions or lateral transfers to vacant covered positions, including head of department positions, shall be filed in writing pursuant with the guidelines as established in the implementing rules and regulations of the city.

Section 12. Disciplinary Action.

The mayor or the head of the department shall have authority to discipline any employee pursuant to this act and the rules and regulations adopted by the city council to implement this act. If a disciplinary action involves suspension without pay, demotion, or dismissal of a regular status employee, the mayor shall submit a written report of the action to the city council giving the reason or reasons for the action.

No regular status employee may be suspended without pay, demoted, dismissed, or otherwise deprived of any right in his or her job unless he or she has been afforded the opportunity of a pre-determination hearing before the mayor in which he or she may face his or her accusers and offer evidence in his or her defense prior to the action being taken.

Charges may also be filed against any employee covered by this act by any nonemployee as follows: the charges shall be submitted in writing to the mayor, setting forth succinctly the matters complained of, and shall be sworn to before a person authorized to administer oaths. Upon receipt of the charges, the mayor shall, after due consideration and consultation with the head of the department, if the employee is not a head of a department, determine whether the charges merit investigation. If in the judgement of the mayor the charges warrant investigation, the mayor shall initiate action to have the charges investigated, and the necessary disciplinary action taken. The action shall be taken pursuant to this act and the rules and regulations adopted to implement this act.

If the affected employee is not a head of a department and objects to the disciplinary action taken, the affected employee may file a written request with the board for a hearing concerning the action. Upon receipt of the appeal of the employee, the board shall hold a public hearing pursuant to Section 13. If the affected employee is a head of a department and objects to the action taken, the affected employee may file a written request with the city council for a hearing concerning the action. The city council shall hold a public hearing pursuant to procedural methods prescribed for the board in Section 13.

Section 13. Employee Appeals and Requests for Hearing.

No disciplinary action taken against a regular status employee, except a head of a department, that involves suspension without pay, demotion, dismissal, or any other action as defined by the implementing rules and regulations shall become final until the board holds a hearing on the action, if the employee appeals the action in writing to the board within ten calendar days of receipt of written notification of the action to be taken by the

mayor. Within 30 calendar days after receipt of the written appeal of the employee, the board shall schedule and hold a public hearing on the appeal and render a decision.

All hearings before the board shall be recorded and transcribed. In all cases, the decision of the board shall be reduced to writing and entered in the record of the case. The board may in its decision uphold the action by the mayor, modify the action, set aside the action, or impose some other action as determined by the evidence and pursuant to the law.

In any proceeding before the board, the mayor may authorize the city attorney or other representative of the city, including any member of the city council, to appear and represent the interest of the city.

The board and its specially authorized representatives shall have the power to administer oaths, take depositions, and certify official acts. If the board finds it necessary to compel the attendance of witnesses and production of papers necessary as evidence in connection with any hearing, investigation, or proceeding within the purview of this act, the board or its representative may invoke the aid of the Circuit Court of Colbert County to produce the testimony or evidence. Upon proper showing, the court shall issue a subpoena or order requiring the person to appear before the board or its representative and produce all evidence and give all testimony relating to the matter in issue. The fees of witnesses for attendance and travel shall be the same as fees for witnesses in the circuit courts of this state and shall be paid from the treasury of the city.

Any party, including the city council, aggrieved by a final decision of the board or city council shall be entitled to a review of the decision by the Circuit Court of Colbert County, by filing a petition in the court within 30 days after the final decision is rendered. The petition shall be accompanied by the security for the costs of the appeal as approved by the clerk of the court. Upon the filing of any petition and approval of the security, notice thereof shall be served upon the chair of the board or on the petitioner. The petition shall be heard by the court at the earliest practicable date. Review by the court shall be without a jury and confined to the record, including a transcript of the evidence. The court may, upon the terms and conditions it deems proper, at any time before the hearing of the petition, permit the taking of additional evidence before the board and allow modification of the findings and final decision of the board. The court upon a hearing of the petition, shall have power to affirm or reverse and render the decision of the board or reverse and remand the matter to the board for further

proceedings consistent with the judgement of the court. The court shall affirm the decision of the board unless it finds that the substantial rights of the petitioner have been prejudiced because the final decision of the board included any of the following: (1) unsupported by substantial evidence in the record submitted; (2) in excess of the authority conferred by this act on the board; (3) violative of constitutional provisions; (4) arbitrary or capricious; or (5) affected otherwise by substantial error or injustice. An appeal may be taken from any final judgement of the circuit court to the Court of Appeals of Alabama or the Supreme Court of Alabama. The appeal shall be perfected as provided in the Alabama Rules of Appellate Procedure. The decision or order of the board shall not be superseded by any review or appeal, and the city shall not be obligated to pay the salary of any employee who is not working during the pendency of any review or appeal.

All cases pending before the board pursuant to prior legislative requirements on the effective date of this act shall be transferred to the board and the proceedings shall be held and consultation on specific matters before the board.

Section 14. Political Activities Prohibited.

No individual shall use, or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to affect employment, promotion, pay, or other conditions of employment, either adversely or advantageously, with the city for the purpose of influencing the vote or political action of any person or for any other consideration. No employee of the city shall be denied the right to participate in federal, state, county, and municipal activities, except as limited by federal or state law. Individuals running for municipal office in the City of Muscle Shoals shall take a leave of absence beginning on the day he or she files a statement of candidacy and continue for as long as he or she is a candidate for the office.

Section 15. Penalties.

The violation by any employee of this act or of any of the rules and regulations adopted by the city pursuant to this act, shall constitute an offense for which charges may be preferred against the employee. If charges are sustained by the city after notice and hearing, the employee may be discharged or otherwise disciplined. The city or any citizen may institute charges against an employee for the violation of this act or of any of the rules or regulations.

Section 16. Adoption and Printing of Regulations.

Upon the effective date of this act, the city shall adopt and have printed the rules and regulations in accordance with this act.

The rules and regulations and all amendments thereafter adopted shall be kept on file in the Office of the City Clerk and open for public inspection. No amendment shall become effective until notice of this adoption has been given to the public for 30 days by posting a copy of the amendment in the vestibule of the municipal building.

Section 17. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 18. All laws or parts of laws which conflict with this act and all existing rules, regulations, and other plans and materials that are considered to be inconsistent with this act are repealed.

Section 19. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 20, 1995

Time: 11:36 A.M.

Act No. 95-208 H. 545 – Reps. Ford, Page, Galliher

AN ACT

Relating to Etowah County; to provide for the establishment of the Etowah County Community Development Committee; to provide that the committee would have authority to disburse funds received from a sales tax; to provide for the membership of the committee; to provide for appointments of members and filling vacancies; to provide for the terms of the members; to provide for compensation; and to provide for staff and compensation of the staff of the committee.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be operative only in Etowah County.

Section 2. There is created the "Etowah County Community Development Committee" which shall have all authority as to the expenditure of the funds received for community development in this county from the one cent ($.01) sales tax which is provided by Act No. _____, H. _____, 1995 Regular Session (Acts 1995, p. ____).

Section 3. The committee shall be composed of five members, four of whom shall be appointed by the county legislative delegation, and the fifth member who shall not have voting privileges shall be the Etowah County Administrator. Each member of the committee shall serve for four years and vacancies on

the committee shall be filled by the appointing authority. The committee shall be appointed within 90 days after the effective date of this act. The first meeting of the committee shall be set by the Etowah County Administrator. Thereafter, the committee may meet as provided in its bylaws.

Section 4. The committee shall not spend any funds received from the sales tax to employ personnel to work for the committee or pay any compensation to the members of the committee. The county commission shall provide secretarial assistance for the committee and pay the costs of the secretarial assistance.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this act are repealed.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 20, 1995

Time: 11:37 A.M.

Act No. 95-209 H. 546 – Rep. Black (L)

AN ACT

Relating to Sumter County; to repeal Act No. 85-471, H. 754 of the 1985 Regular Session (Acts 1985, p. 465), providing supplemental fee allowances for constables and for additional court costs.

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 85-471, H. 754 of the 1985 Regular Session (Acts 1985, p. 465) is repealed.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 20, 1995

Time: 11:38 A.M.

Act No. 95-210 H. 500 – Rep. Knight (A)

AN ACT

To amend Section 37-1-80, Code of Alabama 1975, to provide that the Alabama Public Service Commission may adopt methods of regulation other than rate of return on a determined rate base.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 37-1-80, Code of Alabama 1975, is amended to read as follows:

"§37-1-80.

"(a) The rates and charges for the services rendered and required shall be reasonable and just to both the utility and the public. Every utility shall be entitled to such just and reasonable rates as will enable it at all times to fully perform its duties to the public and will, under honest, efficient and economical management, earn a fair net return on the reasonable value of its property devoted to the public service. For the purpose of fixing rates, such reasonable value of a public utility's property shall be deemed to be the original cost thereof, less the accrued depreciation, as of the most recent date available. In any determination of the commission as to what constitutes such a fair return, the commission shall give due consideration among other things to the requirements of the business with respect to the utility under consideration, and the necessity, under honest, efficient and economical management of such utility, of enlarging plants, facilities and equipment of the utility under consideration, in order to provide that portion of the public served thereby with adequate service.

"(b) Notwithstanding subsection (a) or any other provision to the contrary, the commission retains its authority to consider and adopt alternative methods of regulation of a utility as defined in Section 37-1-30 to establish rates and regulations for services furnished by the utility that are fair, just, and reasonable to the public and that provide fair, just, and reasonable compensation to the utility for the services.

"(1) For the purposes of this subsection, the phrase "alternative methods of regulation" means the regulation of utility rates and service regulations by methods other than a determination of net return on a predetermined rate base.

(2) After the effective date of this act any proceeding to adopt an alternative method of regulation as defined in paragraph (b) (1) shall be initiated by application of the utility seeking such

alternative regulation, by the Commission on its own motion, or by the Attorney General as provided in Section 37-1-16.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 20, 1995

Time: 11:39 A.M.

Act No. 95-211 H. 150 – Reps. McMillan, Gaston, Carter, Papucci

AN ACT

To define the duties of real estate licensees when dealing with the public; to mandate that formal written disclosure documents be provided to all parties to the real estate transaction; to require that all real estate brokerage firms develop a written agency policy; to establish a real estate brokerage arrangement to govern the conduct of all licensees upon initial contact or other dealings with the public; to provide penalties; and to amend Section 34-27-8, Code of Alabama 1975, relating to agency disclosure clause by requiring additional agency disclosure information.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be known and may be cited as the "Real Estate Consumer's Agency and Disclosure Act."

Section 2. As used in this act, the following words shall have the following meanings:

(1) AGENCY AGREEMENT. A written agreement between a broker and a client which creates a fiduciary relationship between the broker and a principal, who is commonly referred to as a client.

(2) BROKER. Any person licensed as a real estate broker pursuant to Articles 1 and 2 of Chapter 27 of Title 34 of the Code of Alabama 1975.

(3) BROKERAGE AGREEMENT. A specific written agreement between a brokerage firm and a consumer which establishes a brokerage relationship. The brokerage agreement shall contain a statement of the terms and conditions of the brokerage services to be provided.

(4) BROKERAGE SERVICE. Any service, except for rental or property management services, provided by a broker or licensee to another person and includes all activities for which a real estate license is required under Article 1 and 2 of Chapter 27 of Title 34 of the Code of Alabama 1975.

(5) CONSUMER. A person who obtains information, advice, or services concerning real estate from a real estate licensee.

(6) CLIENT. A person who has an agency agreement with a broker for brokerage service, whether he or she be buyer or seller.

(7) CUSTOMER. A person who is provided brokerage services by a broker or licensee but who is not a client of the broker.

(8) CONTRACT BROKER. A licensee who assists one or more parties in a contemplated real estate transaction without being an agent or fiduciary or advocate for the interest of any party to a transaction.

(9) DUAL AGENCY. An agency relationship in which the same brokerage firm represents both the seller and the buyer in the same real estate transaction. Circumstances which establish a dual agency include, but are not limited to, one of the following:

a. When two or more licensees licensed under the same broker each represent a different party to the transaction.

b. When one licensee represents both the buyer and seller in a real estate transaction.

(10) QUALIFYING BROKER. A broker under whom a corporation, partnership, or branch office is licensed, or a broker licensed to do business as a sole proprietorship who is responsible for supervising the acts of the company, or proprietorship and all real estate licensees licensed therewith.

(11) INFORMED CONSENT. A consumer's agreement to allow something to happen which is based upon full disclosure of facts needed to choose appropriate brokerage services.

(12) LICENSEE. Any broker, salesperson, or company.

(13) LIMITED CONSENSUAL DUAL AGENT. A licensee who, with the written informed consent of all parties to a contemplated real estate transaction, is engaged as an agent for both the buyer and seller. Circumstances which establish dual agency include, but are not limited to, one of the following:

a. When two or more licensees licensed under the same broker each represent a different party to the transaction.

b. When one licensee represents both the buyer and seller in a real estate transaction.

(14) MATERIAL FACT. A fact that is of significance to a reasonable party which affects the party's decision to enter into a real estate contract.

(15) REAL ESTATE TRANSACTION. The purchase, sale, lease and rental, option, or exchange of an interest in real estate.

(16) SINGLE AGENT. A licensee who is engaged by and represents only one party in a real estate transaction. A single agent includes, but is not limited to, one of the following:

a. Buyer's agent, which means a broker or licensee who is engaged by and represents only the buyer in a real estate transaction.

b. Seller's agent, which means a broker or licensee who is engaged by and represents only the seller in a real estate transaction.

(17) SUB-AGENT. A licensee who is empowered to act for another broker in performing real estate brokerage tasks for a principal, and who owes the same duties to the principal as the agent of the principal.

Section 3. (a) When engaged in any real estate transaction, the licensee may act as a single agent, sub-agent, a limited consensual dual agent, or as a contract broker.

(b) At the initial contact between a licensee and the public and until the time a broker enters into a specific written agreement to establish an agency relationship with one or more of the parties to a transaction, the broker shall be considered to be a contract broker and shall not be considered an agent of any party in the transaction. An agency relationship shall not be assumed, implied, or created without a written bilateral agreement establishing the terms of the agency relationship.

(c) As soon as reasonably possible and before any confidential information is disclosed to any other person by a licensee, the licensee shall provide a written disclosure form to a consumer for signature describing the alternative types of brokerage services, as identified in subsection (a), that are available to clients and customers of real estate brokerage companies. The licensee shall also inform a consumer as to the specific types of brokerage services that are provided by his or her company. A broker shall not be required to offer or engage in any one or in all of the alternative brokerage arrangements specified in subsection (a). The licensee will provide a written form to the consumer for their signature describing the alternative types of brokerage arrangements available. All rental or property management services are excluded from the requirements of this subsection.

(d) After disclosure, the consumer may make an affirmative election of a specific type of brokerage arrangement that is

available from the real estate brokerage company. The brokerage agreement shall contain a statement of the terms and conditions of the brokerage services that the broker will provide. In the absence of a signed brokerage agreement between the parties, the contract brokerage relationship shall remain in effect.

(e) When serving as a contract broker, the duties of the licensee to all the parties to a real estate transaction are limited to those which are enumerated in Section 5 of this act. A signed brokerage agreement between the parties or, in the absence of a signed brokerage agreement, the continuation of the contract brokerage relationship, shall constitute informed consent by the consumer as to the services the consumer shall receive from the broker.

(f) Disclosure forms shall be provided to buyers and sellers. All real estate brokerage firms operating within the State of Alabama shall use the same agency disclosure forms. Disclosure forms describing the alternative types of brokerage services identified above shall be written by the Alabama Real Estate Commission.

(g) Nothing in this section shall prohibit the consumer from entering into a written contract with a broker which contains provisions for services not specifically identified in the written disclosure form.

Section 4. Any broker acting in a real estate transaction shall adopt a written agency disclosure office policy which specifically enumerates the types of brokerage service arrangements a licensee may offer or accept.

(a) The qualifying broker for each brokerage company shall provide every licensee a copy of the agency disclosure policy regarding the types of brokerage services offered by their company. This policy shall be explained to all licensees at least once a year.

(b) A form acknowledging receipt of the office policy statement and a satisfactory explanation of its contents shall be signed by each licensee and a copy retained by the brokerage company for three years.

Section 5. (a) Licensees shall have all of the following obligations to all parties in a real estate transaction:

(1) To provide brokerage services to all parties to the transaction honestly and in good faith.

(2) To exercise reasonable skill and care in providing brokerage services to all parties.

(3) To keep confidential any information given to the licensee in confidence, or any information obtained by the licensee that the

licensee knows a reasonable individual would want to keep confidential, unless disclosure of this information is required by law, violates a fiduciary duty to a client, becomes public knowledge, or is authorized by the party in writing.

(4) To account for all property coming into the possession of the licensee that belongs to any party to the real estate transaction.

(5) When assisting a party in the negotiation of a real estate transaction, to present all written offers in a timely and truthful manner.

(6) To act on behalf of the licensee or his or her immediate family, or on behalf of any other individual, organization, or business entity in which the licensee has a personal interest only with prior timely written disclosure of this interest to all parties to the transaction.

(b) A licensee may provide requested information which affects a transaction to any party who requests the information, unless disclosure of the information is prohibited by law or in this act.

Section 6. (a) In addition to the duties enumerated in Section 5, a licensee shall provide all of the following services to clients:

(1) Loyally represent the best interests of the client by placing the interests of the client ahead of the interests of any other party, unless loyalty to a client violates the duties of the licensee to other parties under Section 5, or is otherwise prohibited by law.

(2) Disclose to the client all information known by the licensee that is material to the transaction and not discoverable by the client through reasonable investigation and observation, except for confidential information as provided in subdivision (3) of subsection (a) of Section 5. A licensee shall have no affirmative duty to discover the information.

(3) Fulfill any obligation required by the agency agreement, and any lawful instructions of the client that are within the scope of the agency agreement, that are not inconsistent with other duties as enumerated in this act.

(b) A broker who represents more than one client in a real estate transaction owes the duties as specified in subsection (a) of this section to each client, except where the duties to one client will violate the fiduciary duties of the licensee to other clients.

(c) A broker may provide brokerage services as a limited consensual dual agent only with the prior written, informed consent of all clients of the broker in the transaction.

Section 7. (a) A client is not liable for a misrepresentation made by a broker in connection with the broker providing brokerage services unless the client knows or should have known of the misrepresentation or the broker is repeating a misrepresentation made by the client to the broker.

(b) A licensee shall not be liable for providing false information to a party in a real estate transaction if the false information was provided to the licensee by a client of the licensee or by a customer or by another licensee unless the licensee knows or should have known that the information was false.

Section 8. The duties of licensees as specified in this act or in rules promulgated by the Alabama Real Estate Commission shall supersede any duties of a licensee to a party to a real estate transaction which are based upon common law principles of agency to the extent that those common law duties are inconsistent with the duties of licensees as specified in this act.

Section 9. A violation or disregard of any provision of this act shall constitute a violation actionable by the commission pursuant to Section 34-27-36, Code of Alabama 1975, as amended.

Section 10. Section 34-27-8, Code of Alabama 1975, is amended to read as follows:

"§34-27-8.

"(a) A majority of the commission members shall constitute a quorum for the conduct of commission business. The commission may adopt and enforce all rules and regulations pursuant to the state administrative procedure statutes necessary for the administration of this chapter, and to otherwise do all things necessary and convenient for effecting this chapter.

"(b) In addition to the powers granted in this section, the commission may adopt and enforce rules and regulations governing the requirements of agency disclosure by licensed brokers and salespersons.

"(c) Each offer to purchase prepared after October 1, 1996, shall have prominently displayed the following AGENCY DISCLOSURE clause which shall be completed and initialed as indicated:

"AGENCY DISCLOSURE:

"Print name of listing company _____

"The listing company is an agent of (check one):

"Seller

"Purchaser

"Both parties as a limited consensual dual agent

"Neither party and is acting as a contract broker

"Print name of selling company if any _____

"The selling company, if any, is an agent of (check one):

"Seller

"Purchaser

"Both parties as a limited consensual dual agent

"Neither party and is acting as a contract broker

"Seller(s) initials Purchaser(s) initials"

Section 11. This act shall become effective October 1, 1996, upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 20, 1995

Time: 11:40 A.M.

Act No. 95-212 H. 451 – Reps. Hall (A), Sanderford, Jorgensen, Hayden, McClammy

AN ACT

To amend Sections 34-37-4, 34-37-5, and 34-37-6 Code of Alabama 1975, relating to the Plumbers and Gas Fitters Examining Board, to provide for the appointment of a deputy director for the board; and to extend the time period in which certain applicants may be licensed by the board without being required to take an examination.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 34-37-4, 34-37-5, and 34-37-6, Code of Alabama 1975, are amended to read as follows:

"§34-37-4.

"(a) The board shall meet when necessary for the proper performance of its duties, but in no case less than once a year. Meetings shall be held at places in the state as the board deems necessary. At its first meeting next following May 2, 1989, and every two years thereafter, the board shall organize itself by electing from its membership a chair, vice-chair, and a recording secretary. The board shall appoint, employ, or contract with an

executive director for the board, and may appoint, employ, or contract with a Deputy Director, neither of whom shall be subject to the State Merit System. The Executive Director shall serve as treasurer of the board, but the Deputy Director may serve as Treasurer of the board in the absence of the Executive Director or when otherwise directed by the board. In addition to any other duties, the Deputy Director may serve as a hearing officer for the board in any license proceeding pursuant to Section 34-37-12. The Executive Director and the Deputy Director shall not be a member of the board and shall not be engaged or otherwise connected with the plumbing or gas fitting industry. The board shall set the compensation of the executive director and the Deputy Director in accordance with regulations of the state personnel board. Four members of the board shall constitute a quorum for transacting business. Each member of the board shall receive as compensation for services the sum of fifty dollars ($50) per day for each day spent in active service for the board. In addition to per diem compensation, each board member shall be reimbursed for any necessary expense incurred in performing duties as a board member. The expenses allowable to each board member shall not exceed the per diem amount of state travel expenses allowed by law, from time to time, for state employees traveling on state business. Employees of the board shall also be entitled to reimbursement for traveling expenses incurred when traveling on official board business at the rate for state employees traveling on state business. The board may employ or contract for stenographic or clerical help and compliance officers when needed, and may purchase necessary office supplies, equipment, and services.

"(b) The compensation and expense provided for in this section, and all other authorized expenses, shall be payable solely from fees collected by or on behalf of the board. In no event shall any expense incurred by the board be charged against any funds of the state of Alabama other than the funds collected under this chapter."

"§34-37-5.

"(a) There is established a separate special revenue trust fund in the state treasury to be known as the Alabama plumbers and gas fitters examining board fund. All receipts collected by the board under this chapter shall be deposited in this fund and used only to carry out this chapter. The fund shall be disbursed only by warrant of the state comptroller upon the state treasury upon itemized vouchers approved by the executive director of the board or, in the absence of the Executive Director, by the Deputy Director. No funds shall be withdrawn or expended except as budgeted and allotted according to sections 41-4-80 to 41-4-96, inclusive, as amended, and only in amounts as stipulated in the general

appropriation bill or other appropriation bills. Any funds unspent and unencumbered at the end of each fiscal year shall not revert to the state general fund, but shall carry forward to the succeeding fiscal year for the use of the board.

"(b) The executive director and the Deputy Director of the board shall, before entering upon the duties of their office, make and file with the secretary of state an official bond in the sum of five thousand dollars ($5,000), unless covered by the state blanket bond. The appropriate premiums on the bond shall be paid out of the funds of the board, and the bond shall be executed by an approved bonding fidelity or guaranty company qualified to do business in Alabama and acceptable to the secretary of state."

"§34-37-6.

"(a) It shall be unlawful for any person, firm, or corporation to purchase a business license or to do or perform, or to contract, direct, or superintend any plumbing or gas fitting within any incorporated city or town or county of this state unless the person has first received a certificate of competency, hereinafter referred to as "certificate," that is in force and effect at time the plumbing or gas fitting is done, directed, or superintended, except as hereinafter provided.

"(b) The board shall register every person who may apply for an apprentice plumber or gas fitter registration certificate upon forms provided by the board, upon first paying all fees herein prescribed.

"(c) The board shall examine and pass upon the qualification of every person who applies for a journeyman's plumber or gas fitter certificate upon forms provided by the board. An applicant for examination for a journeyman's plumber or gas fitter certificate shall submit proof that the applicant has two years of work experience as an apprentice plumber or gas fitter or has completed an apprentice training program approved by the board. Applicants for journeyman plumber or gas fitter shall be examined, orally or in writing, upon the fundamentals of plumbing or gas fitting, the theory and practice of plumbing installation and construction or gas fitting work, and the experience and ability of the applicant in practical plumbing installation and construction or gas fitting work. If the applicant is found to possess an accurate knowledge of the theory and correct practice of plumbing installation and construction or gas fitting work, and sufficient experience and ability in plumbing installation and construction or gas fitting work to safely and competently apply that knowledge and practice, the board shall issue a certificate, upon the applicant first paying all fees herein prescribed. The examination shall be administered by an independent examining agency.

"(d) The board shall examine and pass upon the qualifications of every person who applies for a master's plumber or gas fitter certificate upon forms provided by the board.

"(1) Applicants for examination for a master plumber certificate shall submit proof to the board that the applicant has at least one year of work experience as a journeyman plumber.

"(2) Applicants for examination for a master gas fitter's certificate shall submit proof to the board that the applicant has at least one year of work experience as a gas fitter.

"(3) An applicant for a master's certificate shall be examined upon knowledge, training, and ability, in the planning, laying out, and supervision of plumbing installation and construction work or gas fitting work, and if found to possess the qualifications hereinabove prescribed, the applicant shall be issued a master's plumber or gas fitter certificate by the board.

"(e) No person shall be issued a certificate without passing the prescribed examination. A person who has passed the examination shall not be required to take the examination thereafter in order to secure a certificate in subsequent years. At least four examinations per year shall be conducted, at a time and place prescribed by the board after reasonable notice thereof.

"(f) Certificates may be issued without examination to those persons who have been certified under the general laws of the state as plumbers or gas fitters for at least two years prior to May 2, 1989, or who furnish proof to the board that they have passed an examination substantially equivalent to the board-approved examination prior to May 2, 1989. The board shall determine the passing score and the equivalency of the examination."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 20, 1995

Time: 11:41 A.M.

Act No. 95-213 H. 396 – Reps. Sims, Boyd, Johnson (R)

AN ACT

Relating to Talladega County; providing further for the fees of constables.

Be It Enacted by the Legislature of Alabama:

Section 1. In Talladega County, constables shall be entitled to a fee in the total amount of three dollars and fifty cents ($3.50)

for actual service of each process, and a gasoline allowance in the total amount of two dollars and fifty cents ($2.50) for actual service of each process. The fees provided by this section shall be payable from the county treasury upon sworn statement certified by the circuit clerk and shall not affect the collection and distribution of uniform fees.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 20, 1995

Time: 11:42 A.M.

Act No. 95-214 H. 360 – Rep. Turner

AN ACT

This bill would require all commercial fishing equipment used in the waters of this state to be affixed with a tag containing the name, address, and social security number or tax identification number of the commercial fisherman, and provide for a penalty.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) Notwithstanding any other provision of law, all commercial fishing equipment used in the waters of this state shall be affixed with a tag which has the name, address, and social security number or tax identification number of the commercial fisherman owning the equipment imprinted on the tag.

(b) A violation of this act shall be a Class B misdemeanor.

Section 2. All laws or parts of laws which conflict with this act are repealed.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 20, 1995

Time: 11:43 A.M.

Act No. 95-215 H. 363 – Rep. Turner

AN ACT

To amend Section 9-11-235 of the Code of Alabama 1975, relating to the taking of certain animals and birds at night, so as to further provide for the penalties for violations.

Be It Enacted by the Legislature of Alabama:

Section 1. It is the intent of the Legislature to increase the penalties for illegal night hunting of certain animals.

Section 2. Section 9-11-235 of the Code of Alabama 1975 is amended to read as follows:

"§9-11-235.

"It shall be unlawful, except as to trapping as otherwise provided by law, for a person to take, capture, or kill, or attempt to take, capture, or kill any bird or animal protected by the laws of this state between sunset and daylight of the following day, except that the commissioner of conservation and natural resources may by a duly promulgated regulation, allow the taking, catching, or killing of raccoons and opossums between sunset and daylight in any county or counties within the state. In any county where the taking, catching, or killing of raccoons and opossums is permitted during nighttime hours by regulations of the commissioner, the animals may only be legally taken with the use of a light and/or a shotgun using shot no larger than number eight, and the person or persons so hunting shall be accompanied by a dog or dogs and, if hunting on the lands of another, shall have the written permission of the landowner.

Any person violating this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished for the first offense by a fine of not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000) and the court shall revoke all hunting license privileges for a period of three years from the date of conviction. Any person shall be punished for the second and each subsequent offense by a fine of not less than two thousand dollars ($2,000), and shall have all hunting license privileges revoked for a period of three years from the date of conviction, and shall be imprisoned in the county jail for a period of not less than three days nor more than ten days.

"No provision of this section shall be construed to prohibit the nighttime hunting of foxes with dogs."

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 20, 1995

Time: 11:44 A.M.

Act No. 95-216 H. 345 – Rep. Laird

AN ACT

To amend Sections 16-25-14 and 36-27-16 of the Code of Alabama, 1975, relating to retirement benefits of teachers and state employees, to remove the disability reduction factor for members of the Teachers' and Employees' Retirement Systems effective October 1, 1995; and to provide for the payment of full earned benefits prospectively from that date.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 16-25-14 and 36-27-16 of the Code of Alabama 1975, are amended to read as follows:

"§16-25-14.

"(a)(1) Any member who withdraws from service upon or after attainment of age 60 may retire upon written application to the Board of Control setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired; provided, that any such member who became a member on or after October 1, 1963, shall have completed 10 or more years of creditable service.

"(2) Any member who has attained age 60 and has previously withdrawn from service may retire upon written application to the Board of Control setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired; provided, that the said member shall have completed at the time for his withdrawal from service the requirements established by the Board of Control for eligibility for deferred benefits pursuant to Section 16-25-3.

"(3) Any person who is presently covered or is eligible to be covered under the Employees' Retirement System of Alabama or the Teachers' Retirement System of Alabama and who, prior to such coverage or eligibility for coverage, served as head of any Alabama county's public library service department shall have credited to him or her one year of creditable service for each year served as such head, not to exceed 12 years; provided, that such person shall pay into the retirement system the employee's part of the cost or contribution based on the salary paid to such person

during the time of his or her service in the above capacity, with such cost or contribution to be calculated at the percent or rate in effect on October 1, 1973.

"(4) Any member of the Teachers' Retirement System of Alabama, who withdraws from service after the completion of at least 25 years of creditable service, may retire upon written application to the Board of Control of the Teachers' Retirement System setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired; provided, that any such member who became a member on or after October 1, 1963 shall have completed 10 or more years of creditable service.

"(b) Upon retirement from service, a member shall receive a service retirement allowance which shall consist of:

"(1) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement;

"(2) A pension which shall be equal to the annuity allowable at the age of retirement, but not to exceed an annuity allowable at age 65 computed on the basis of contributions made prior to the attainment of age 65; and

"(3) If he has a prior service certificate in full force and effect, an additional pension which shall be equal to the annuity which would have been provided at age of retirement, but not to exceed an annuity allowable at age 65 by twice the contributions which he would have made during the period of prior service with which he is credited had the system been in operation and had he contributed thereunder. In lieu of a determination of the actual compensation of the members that was received during such prior service, the Board of Control may use for the purposes of this chapter the compensation rates which, if they had progressed with the rates of salary increase shown in the tables as prescribed in subsection (o) of Section 16-25-19, would have resulted in the same average salary of the member for the five years immediately preceding the date of establishment as the records show the member actually received.

"(c) The annual service retirement pension payable to a member retiring on or after October 1, 1975, shall not be less than an amount which when added to his annuity is equal to the greater of the following two amounts:

"(1) Two and one-eightieth percent of the member's average final compensation multiplied by the number of years of his creditable service; or

"(2) If he became a member before October 1, 1971, $72 multiplied by the number of years of his creditable service not in excess of 25 years.

"Notwithstanding, a member who retired prior to October 1, 1971, under service retirement shall receive $120 multiplied by the number of years of his creditable service not in excess of 25 years.

"(d) Upon the application of a member in service or of his employer, any member who has had 10 or more years of creditable service may be retired by the Board of Control on a disability retirement allowance not less than 30 nor more than 90 days next following the date of filing such an application; provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired.

"(e) Upon retirement for disability, a member shall receive a service retirement allowance if he has attained age 60 or if any law or part of any law pertaining to retirement under the Teachers' Retirement System of Alabama provides for service retirement after the completion of 25 years of creditable service and the member has completed 25 years of creditable service; otherwise, he shall receive a disability retirement allowance which shall consist of:

"(1) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement; and

"(2) A pension which shall be equal to the pension that would have been payable under subdivisions (2) and (3) of subsection (b) of this section upon service retirement at age 60 had the member continued in service to said age without change in compensation.

"The annual disability retirement pension shall not be less than an amount which when added to his annuity is equal to the greater of the following amounts:

"a. Two and one-eightieth percent of the member's average final compensation multiplied by the number of years of creditable service.

"b. If he became a member before October 1, 1971, $54 multiplied by the number of years of his creditable service not in excess of 25 years.

"Notwithstanding, a member who retired prior to October 1, 1971, for disability shall receive $90 multiplied by the number of years of his creditable service not in excess of 25 years.

"(f)(1) Once each year during the first five years following the retirement of a member on a disability retirement allowance and once in every three-year period thereafter, the Board of Control may and upon his application shall require any disability beneficiary who has not yet attained age 60 to undergo a medical examination, such examination to be made at the place of residence of such beneficiary or other place mutually agreed upon by a physician of or designated by the medical board. Should any disability beneficiary who has not yet attained age 60 refuse to submit to such medical examination, his pension may be discontinued until his withdrawal of such refusal, and should his refusal continue for one year, all his rights in and to his pension may be revoked by the Board of Control.

"(2) Should the medical board report and certify to the Board of Control that a disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation and should the Board of Control concur in such report, then the amount of his pension shall be reduced to an amount which, together with his annuity and the amount earnable by him, shall equal the amount of his average final compensation. Should his earning capacity be later changed, the amount of his pension may be further modified; provided, that the new pension shall not exceed the amount of the pension originally granted nor an amount which, when added to the amount earnable by the beneficiary together with his annuity, equals the amount of his average final compensation.

"(g)(1) Should a member cease to be a teacher, except by death or by retirement under the provisions of this chapter, the contributions standing to the credit of his individual account in the annuity savings fund shall be paid to him upon demand, and in addition to such payment there shall be paid five tenths of the interest accumulations standing to the credit of his individual account if he shall have not less than three but less than 16 years of membership service, six tenths of such interest accumulations if he shall have not less than 16 but less than 21 years of membership service, seven tenths of such interest accumulations if he shall have not less than 21 but less than 26 years of membership service, and eight tenths of such interest accumulations if he shall have not less than 26 years of membership service.

"(2) In case of the death of a member eligible for service retirement pursuant to subsection (a) of this section, an allowance shall be paid to the surviving spouse, or to such other person who the member shall have specifically designated for the receipt of such benefit rather than the spouse, in an amount that would have been

payable if the member had retired immediately prior to his death and had elected option 3, as set forth in subsection (h) of this section or, alternatively, if the surviving spouse or other designee desires, he may choose to receive, in lieu of the allowance provided under option 3, the accumulated contributions of the member plus an amount equal to the accumulated contributions of the member not to exceed $5,000 or the accumulated contributions of the member plus the benefit provided by Section 36-27B-3 if a benefit is payable under such section.

"(3) In case of the death of a member not eligible for service retirement after completion of 25 years of creditable service, an allowance shall be paid to the surviving spouse, or to such other person who the member shall have specifically designated for the receipt of such benefit rather than the spouse, in an amount that would have been payable if the member had retired for disability immediately prior to his death and had elected option 3, as set forth in subsection (h) of this section or, alternatively, if the surviving spouse or other designee desires, he may choose to receive, in lieu of the allowance provided under option 3, the accumulated contributions of the member plus an amount equal to the accumulated contributions of the member not to exceed $5,000 or the accumulated contributions of the member plus the benefit provided by Section 36-27B-3 if a benefit is payable under such section.

"(4) Upon the death of a member on account of whom no survivor allowance is payable under subdivision (2) or (3) of this subsection, the accumulated contributions of the member plus an amount equal to the accumulated contributions not to exceed $5,000 or the accumulated contributions of the member plus the benefit provided by Section 36-27B-3 if a benefit is payable under such section shall be paid to his estate or to such person as he shall have nominated by written designation duly executed and filed with the Board of Control.

"(h) With the provision the election of an option shall be effective on the effective date of retirement, any member may elect prior to retirement to receive, in lieu of his retirement allowance payable throughout life, the actuarial equivalent at that time of his retirement allowance in a reduced retirement allowance payable throughout life with the provision that:

"(1) OPTION 1. — If he dies before he has received in annuity payments the present value of his annuity as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Control;

"(2) OPTION 2. — Upon his death, his reduced retirement allowance shall be continued throughout the life of and paid to

such person as he shall nominate by written designation duly acknowledged and filed with the Board of Control at the time of his retirement;

"(3) OPTION 3. — Upon his death, one half of his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Control at the time of his retirement; or

"(4) OPTION 4. — Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate; provided, that such other benefit or benefits, together with the reduced retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance and shall be approved by the Board of Control.

"(i)(1) Should any beneficiary be restored to active service from service retirement or from disability retirement on or after attainment of age 50, his retirement allowance shall be suspended until he again withdraws from service and, he shall not again become a member, nor shall he make contributions; except, that should such beneficiary who has been restored to active service continue in service for a period of two or more years from the date of his reentry into active service, he may request the Board of Control to allow him to again become a member of the retirement system. The Board of Control may grant the request for restoration to membership; provided, that such beneficiary whose retirement allowance has been suspended shall repay to the system all moneys received by him as benefits during any period subsequent to the date of his reentry into active service; provided further, that he shall make a contribution equal to the amount he would have contributed had he been a member during the period of his restoration to active service on a suspended allowance basis, together with the interest which would have been credited to the contributions on account of such period of restoration up to the date such contribution is made.

"(2) Should any beneficiary on disability retirement be restored to active service before reaching age 50, he shall again become a member of the retirement system and shall make contributions.

"(j)(1) All retirement allowance payments due on or after October 1, 1975 to members who retired prior to October 1, 1975 shall be redetermined as if the provisions of subsections (b) and (e) of this section which became effective on said date were in effect at the time the member retired; provided, that the annual retirement allowance of any member who retired on or before January 1, 1956 shall be not less than $132 multiplied by the number of years of

his creditable service not in excess of 30 years in the case of service retirement or $99 multiplied by the number of years of creditable service not in excess of 30 years in the case of disability retirements. Any increase provided in the retirement allowance payment under this subsection for a member who retired under the provisions of any optional benefit elected pursuant to subsection (h) of this section shall accrue only to the retired member, and no person designated to receive any payments after the death of a retired member under the provisions of any such optional benefit shall receive any increase in such payments under this subsection.

"(2) Any person who served at least 30 years as a teacher in the public schools of Alabama and was never a member of the system and who, prior to October 1, 1963, was in receipt of a benefit for old age assistance pursuant to subsections (1) and (2) of section 1 of Act 116, approved August 24, 1959, shall be entitled to receive an annual retirement allowance of $3,960 from the system, effective as of October 1, 1973.

"(3) Prior to October 31, 1975 any beneficiary may elect to leave on deposit with the system all or a specified part of any increase in his monthly retirement allowance payments arising in accordance with subdivision (1) or (2) of this subsection. The portion of each monthly payment left in the system in accordance with such election shall be credited, together with regular interest thereon, to the individual account of such beneficiary. Upon the death of such beneficiary, the total amount standing to his credit, including regular interest to the date of death, shall be paid in a lump sum to his legal representative or to such person as he shall have nominated by written designation duly acknowledged and filed with the Board of Control."

"§36-27-16.

"(a)(1) RETIREMENT, ETC., OF EMPLOYEES GENERALLY; ELIGIBILITY FOR SERVICE RETIREMENT BENEFITS.

"a. Any member who withdraws from service upon or after attainment of age 60 may retire upon written application to the board of control setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired; provided, that any such member who became a member on or after October 1, 1963, shall have completed 10 or more years of creditable service; provided further, that a member employed as a state policeman shall be eligible to file application of service retirement upon attaining age 52.

"b. Any member who has attained age 60, or age 52 in the case of a state policeman, and has previously withdrawn from service

may retire upon written application to the board of control setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired; provided, said member shall have at the time of his withdrawal from service completed the age and service requirements established by the board of control for eligibility for deferred benefits; provided, that such minimum number of years of creditable service shall not be less than 10 years nor more than 25 years.

"c. In addition to any law or part of law relating to service retirement under the employees' retirement system of Alabama, any member of the employees' retirement system who withdraws from service after completion of not less than 25 years of creditable service may retire without a reduction in retirement allowance upon written application to the board of control of the employees' retirement system setting forth the first day of which month, not less than 30 days or more than 90 days subsequent to the execution and filing thereof, he desires to be retired, provided that no person whose employer participates in the employees' retirement system under section 36-27-6 shall be entitled to the benefits provided in this paragraph unless such employer elects to come under the provisions of said paragraph. Any employer making such election must bear the cost of such benefit.

"(2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

"a. Upon retirement from service a member shall receive a service retirement allowance which shall consist of:

"1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; except, that in the case of a state policeman who has completed 20 years of creditable service as a state policeman who retires after age 56 but prior to age 60, the annuity shall be equal to the annuity that would have been payable upon service retirement at age 60 had the member continued in service to said age 60 without change in compensation;

"2. A pension which shall be equal to the annuity allowance at age of retirement, but not to exceed an annuity allowable at age 65, computed on the basis of contributions made prior to attainment of age 65; except, that in the case of a state policeman who has completed 20 years of creditable service as a state policeman who retires after age 56 but prior to age 60, the pension shall be equal to the annuity that he would have received had he contributed to age 60 without change in compensation; and

"3. An additional pension, if he has a prior service certificate in full force and effect, which shall be equal to the annuity which

would have been provided at the age of retirement, but which shall not exceed an annuity allowable at age 65 by twice the contributions which he would have made during the period of prior service with which he is credited had the system been in operation and had he contributed thereunder; except, that in case of a state policeman who has completed 20 years of creditable service as a state policeman who retired after age 56 but prior to age 60, an additional pension, if he has a prior service certificate in full force and effect, which shall be equal to the annuity which would have been provided at age 60, but which shall not exceed an annuity allowable at age 60 by twice the contributions which he would have made during the period of prior service with which he is credited had the system been in operation and had he contributed thereunder.

"b. Notwithstanding the provisions of subparagraphs 1, 2, and 3 of paragraph a of this subdivision, a state policeman who has completed 20 years of service as a state policeman who retires after age 52 but prior to age 56 shall receive:

"1. An annuity which shall be equal to the annuity that would have been payable had the member continued in service for four years without change in compensation;

"2. A pension which shall be equal to the annuity that he would have received had he contributed for four years without change in compensation; and

"3. An additional pension, if he has a prior service certificate in full force and effect, which shall be equal to the annuity which would have been provided at the age of retirement, but which shall not exceed an annuity allowable at the age of retirement plus four years by twice the contributions which he would have made during the period of prior service with which he is credited had the system been in operation and had he contributed thereunder. In lieu of a determination of the actual compensation of a member that was received during such prior service, the board of control may use for the purpose of this article the compensation rate which, if it had progressed with the rates of salary increase shown in the tables as prescribed in subsection (n) of section 36-27-23, would have resulted in the same average salary of the member for the five years immediately preceding the date of establishment as the records show the member actually received.

"c. The annual service retirement pension payable to a member not employed as a state policeman retiring on or after October 1, 1975, shall not be less than an amount which, when added to his annuity, is equal to the greater of the following two amounts:

"1. Two and one-eightieth percent of the member's average final compensation multiplied by the number of years of his creditable service; or

"2. If he became a member before October 1, 1965, $72.00 multiplied by the number of years of his creditable service not in excess of 25 years.

"d. The annual service retirement pension payable to a member employed as a state policeman retiring on or after October 1, 1975, shall not be less than an amount which, when added to his annuity is equal to the greater of the following two amounts:

"1. Two and seven-eighths percent of the member's average final compensation multiplied by the number of years of his creditable service; or

"2. If he became a member before October 1, 1965, $86.40 multiplied by the number of years of his creditable service not in excess of 25 years; provided, however, that if such member has completed 20 years of creditable service as a state policeman and has not attained age 60 at the time of retirement, said pension shall be determined as provided in this subparagraph on the basis of the number of years of creditable service which he would have had if he had remained in service for four years, except that, in the case of those state policemen retiring at age 56 or after, the number of years in determining said pension shall not exceed the number of years of creditable service which he would have had if he had remained in service to age 60.

"e. Anything in this article to the contrary notwithstanding, in the application of the foregoing provisions of this subdivision to a member whose creditable service includes a period of service as a state policeman and a period of service in another employment classification, the benefit rates applicable to a member employed as a state policeman shall apply to all creditable service as a state policeman, and the benefit rates applicable to a member not employed as a state policeman shall apply to all creditable service, but in all other respects the pension under this subdivision shall be determined on the basis of the member's employment classification at the time of his withdrawal from service.

"f. The annual service retirement pension payable to any state employee who had attained age 60 on or before October 1, 1945, who declined membership in the employees' retirement system of Alabama in the manner prescribed in section 36-27-4 and who retires as a state employee after completing a minimum of 15 years' service shall be $72.00 multiplied by the number of years of his service not in excess of 25 years.

"(b) (1) RETIREMENT OF DISABLED EMPLOYEES; ELIGIBILITY FOR DISABILITY RETIREMENT BENEFITS.

"a. Upon application of a member in service or of his employer, any member who has had 10 or more years of creditable service who becomes disabled may be retired on a disability retirement allowance by the board of control not less than 30 nor more than 90 days next following the date of filing of such application; provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent and that such member should be retired.

"b. Without regard to the number of years of creditable service, a member employed as a state policeman, a municipal police officer or a deputy sheriff, or a member employed as a state, municipal or county firefighter who is not covered through his current employer under the United States Social Security Act, who as a result of his employment, in the line of duty and not as a result of his own misconduct, shall become permanently and totally disabled to the extent that he cannot perform his duties or duties of a less strenuous nature, as an employee of the state of Alabama or as an employee of an employer participating under the provisions of section 36-27-6, shall be retired on a disability retirement allowance, not less than 30 nor more than 90 days next following the date of filing of such application, provided that the medical board, after a medical examination of such member shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired.

"(2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.

"a. Upon retirement for disability a member shall receive a service retirement allowance if he has attained age 60, or if any law or part of any law pertaining to retirement under the employees' retirement system of Alabama provides for service retirement after the completion of 25 years of creditable service without a reduction in the retirement allowance and the member has completed 25 years of creditable service, or, in the case of a state policeman, if he has attained age 52; otherwise, he shall receive a disability retirement allowance which shall consist of:

"1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement;

"2. A pension which shall be equal to the pension that would have been payable under subparagraphs 2 and 3 of paragraph a of

subdivision (2) of subsection (a) of this section upon service retirement at age 65 had the member continued in service to said age without change in compensation.

"b. The annual disability retirement pension payable to a member not employed as a state policeman retiring on or after October 1, 1975, shall not be less than an amount which when added to his annuity is equal to the greatest of the following two amounts:

"1. Two and one-eightieth percent of the member's average final compensation multiplied by the number of years of creditable service.

"2. If he became a member before October 1, 1965, $54.00 multiplied by the number of years of his creditable service not in excess of 25 years.

"c. The annual disability retirement pension payable to a member employed as a state policeman retiring on or after October 1, 1975, shall not be less than an amount which when added to his annuity is equal to the greater of the following two amounts:

"1. Two and seven-eighths percent of the member's average final compensation multiplied by the number of years of his creditable service; or

"2. If he became a member before October 1, 1965, $64.80 multiplied by the number of years of his creditable service not in excess of 25 years.

"d. Anything in this chapter to the contrary notwithstanding in the application of the provisions of this subdivision to a member whose creditable service includes a period of service as a state policeman and a period of service in another employment classification the benefit rates applicable to a member employed as a state policeman shall apply to all creditable service as a state policeman, and the benefit rates applicable to a member not employed as a state policeman shall apply to all other creditable service, but in all other respects the pension under this subdivision shall be determined on the basis of the member's employment classification at the time of his withdrawal from service.

"(3) REEXAMINATION OF BENEFICIARIES RETIRED ON ACCOUNT OF DISABILITY. — Once each year during the first five years following the retirement of a member on a disability retirement allowance and once every three-year period thereafter, the board of control may, and upon his application shall, require any disability beneficiary who has not yet attained age 60 to undergo a medical examination, such examination to be made at

the place of residence of such beneficiary or other place mutually agreed upon by a physician or physicians of or designated by the medical board. Should any disability beneficiary who has not yet attained age 60 refuse to submit to such medical examination, his allowance may be discontinued until his withdrawal of such refusal, and, should his refusal continue for one year, all his rights in and to his pension may be revoked by the board of control; provided, that these requirements relative to the medical examination shall not apply in the case of a state policeman retired for disability and who has attained age 52. Should the medical board report and certify to the board of control that a disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation and should the board of control concur in such report, then the amount of his pension shall be reduced to an amount which, together with his annuity and the amount earnable by him shall equal the amount of his average final compensation. Should his earning capacity be later changed, the amount of his pension may be further modified; provided, that the new pension shall not exceed the amount of the pension originally granted nor an amount which, when added to the amount earnable by the beneficiary, together with this annuity exceeds the amount of his average final compensation.

"(c) Disposition of contributions and allowances upon death, etc., of member.

"(1) Should a member cease to be an employee except by death or by retirement under the provisions of this article, the contributions standing to the credit of his individual account in the annuity savings fund shall be paid to him upon demand and, in addition to such payment, there shall be paid five tenths of the interest accumulations standing to the credit of his individual account if he shall have not less than three but less than 16 years of membership service, six tenths of such interest accumulations if he shall have not less than 16 but less than 21 years of membership service, seven tenths of such interest accumulations if he shall have not less than 21 but less than 26 years of membership service and eight tenths of such interest accumulations if he shall have not less than 26 years of membership service.

"(2) In case of the death of a member eligible for service retirement pursuant to subsection (a) of this section, an allowance shall be paid to the surviving spouse, or to such other person who the member shall have specifically designated for the receipt of such benefit rather than the spouse, in an amount that would have been payable if the member had retired immediately prior to his death and had elected option 3, as set forth in subsection (d) of this

section or, alternatively, if the surviving spouse or other designee desires, he may choose to receive, in lieu of the allowance provided under option 3, the accumulated contributions of the member plus an amount equal to the accumulated contributions of the member not to exceed $5,000.00 or the accumulated contributions of the member plus the benefit provided by section 36-27B-3 if a benefit is payable under such section;

"(3) In case of the death of a member not eligible for service retirement, after completion of 25 years of creditable service, an allowance shall be paid to the surviving spouse, or to such other person who the member shall have specifically designated for the receipt of such benefit rather than the spouse, in an amount that would have been payable if the member had retired for disability immediately prior to his death and had elected option 3 as set forth in subsection (d) of this section or, alternatively, if the surviving spouse or other designee desires, he may choose to receive, in lieu of the allowance provided under option 3, the accumulated contributions of the member plus an amount equal to the accumulated contributions of the member not to exceed $5,000.00 or the accumulated contributions of the member plus the benefit provided by section 36-27B-3 if a benefit is payable under such section;

"(4) Upon the death of a member on account of whom no survivor allowance is payable under subdivisions (2) or (3) of this subsection, the accumulated contributions of the member plus an amount equal to the accumulated contributions not to exceed $5,000.00 or the accumulated contributions of the member plus the benefit provided by section 36-27B-3 if a benefit is payable under such section shall be paid to his estate or to such person as he shall have nominated by written designation duly executed and filed with the board of control.

"(d) Optional allowances. — With the provision that the election of an option shall be effective on the effective date of retirement, any member may elect prior to retirement to receive, in lieu of his retirement allowance payable throughout life, the actuarial equivalent, at that time, of his retirement allowance in a reduced retirement allowance payable throughout life with the provisions that:

"(1) Option 1. — If he dies before he has received in annuity payments the present value of his annuity as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the board of control;

"(2) Option 2. — Upon his death, his reduced retirement allowance shall be continued throughout the life of and paid to

such person as he shall nominate by written designation duly acknowledged and filed with the board of control at the time of his retirement;

"(3) Option 3. — Upon his death, one half of his reduced allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the board of control at the time of his retirement; or

"(4) Option 4. — Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate; provided, that such other benefits, together with the reduced retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance and shall be approved by the board of control.

"(e) (1) EFFECT OF RETURN TO ACTIVE SERVICE. — Should any beneficiary be restored to active service from service retirement or from disability retirement on or after attainment of age 52, his retirement allowance shall be suspended until he again withdraws from service and he shall not again become a member of the retirement system nor shall he make contributions; except, that should such beneficiary who has been restored to active service continue in service for a period of two or more years from the date of his reentry into active service, he may request the board of control to allow him to again become a member of the retirement system. The board of control may grant the request for restoration to membership; provided, that such beneficiary whose retirement allowance has been suspended shall repay to the system all moneys received by him as benefits during any periods subsequent to the date of his reentry into active service and shall make a contribution equal to the amount he would have contributed had he been a member during the period of his restoration to active service on a suspended allowance basis together with the interest which would have been credited to the contributions on account of such period of restoration up to the date such contribution is made.

"(2) Should any beneficiary on disability retirement be restored to active service before reaching age 52, he shall again become a member of the retirement system and shall make contributions.

"(f)(1) REDETERMINATION, ETC. OF CERTAIN ALLOWANCES. — All retirement allowance payments due on or after October 1, 1975, to members who retired prior to said date shall be redetermined as if the provisions of this section in effect on October 1, 1975, were in effect at the time the member retired. Anything in this article to the contrary notwithstanding, the annual retirement allowance of any member not employed as a

state policeman who retired on or before January 1, 1956, shall not be less than $79.20 multiplied by the number of years of his creditable service not in excess of 30 years in the case of service retirement of $59.40 multiplied by the number of years of his creditable service not in excess of 30 years in the case of disability retirement. Any increase provided in the retirement allowance payment under this subdivision for a member who retired under the provisions of any optional benefit elected pursuant to subsection (d) of this section shall accrue only to the retired member, and no person designated to receive any payments after the death of a retired member under the provisions of any such optional benefit shall receive any increase in such payments under this subdivision. Notwithstanding, any member who retired prior to October 1, 1975, and who chose either option 2 or option 3 may elect to receive a reduced allowance and to stipulate that the actuarial equivalent of the increase in his retirement allowance, which became effective on said date, be ascribed to his designated beneficiary; provided, that such member shall clearly express this intention by filing a written application to said effect with the secretary-treasurer of the employees' retirement system of Alabama prior to October 1, 1976.

"(2) Any person who, prior to October 1, 1963, was in receipt of a benefit pursuant to Act No. 376, approved November 6, 1959, but was not a member of the system at the time of retirement shall not be entitled to receive an annual retirement allowance from the system, effective October 1, 1971, as follows:

"a. If such person was retired on or before January 1, 1956, an amount equal to $79.20 multiplied by the number of years of his creditable service not in excess of 30 years.

"b. If such person was retired after January 1, 1956, an amount equal to $72.00 multiplied by the number of years of his creditable service not in excess of 25 years.

"(3) Prior to October 31, 1975, any beneficiary may elect to leave on deposit with the system all or a specified part of any increase in his monthly retirement allowance payments arising in accordance with subdivisions (1) or (2) of this subsection over the monthly allowance which he was receiving prior to October 1, 1975. The portion of each monthly payment left in the system in accordance with such election shall be credited, together with regular interest thereon, to the individual account of such beneficiary. Upon the death of such beneficiary the total amount standing to his credit, including regular interest to the date of death, shall be paid in a lump sum to his legal representatives or to such person as he shall have nominated by written designation duly acknowledged and filed with the board of control."

Section 2. It is the intent of this act to remove the disability penalty provision and to apply the act to all disability retirants prior to and after October 1, 1995, so as to allow them to receive, effective October 1, 1995, their pension annuity without the previous penalty. It is not the intent of this act to provide retroactive pay to anyone retiring prior to the effective date of this act.

Section 3. This act shall become effective October 1, 1995, upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved June 20, 1995

Time: 11:45 A.M.

Act No. 95-217 H.J.R. 66 – Rep. Hooper

HOUSE JOINT RESOLUTION

RECLAIMING STATE SOVEREIGNTY UNDER THE TENTH AMENDMENT OF THE UNITED STATES CONSTITUTION FOR THE STATE OF ALABAMA.

WHEREAS, the 10th Amendment of the Constitution of the United States reads as follows:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people"; and

WHEREAS, the 10th Amendment defines the total scope of federal power as being that specifically granted by the United States Constitution and no more; and

WHEREAS, the scope of power defined by the 10th Amendment means that the federal government was created by the states specifically to be an agent of the states; and

WHEREAS, today, in 1995, the states are demonstrably treated as agents of the federal government; and

WHEREAS, numerous resolutions have been forwarded to the federal government by various states without any response or result from Congress or the federal government; and

WHEREAS, many federal mandates are directly in violation of the 10th Amendment to the Constitution of the United States; and

WHEREAS, the United States Supreme Court has ruled in New York v. United States, 112 S. Ct. 2408 (1992), that Congress

may not simply commandeer the legislative and regulatory processes of the state; and

WHEREAS, a number of proposals from previous administrations and some now pending from the present administration and from Congress may further violate the United States Constitution; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the State of Alabama hereby claims sovereignty under the 10th Amendment of the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the United States Constitution.

BE IT FURTHER RESOLVED, That this serve as Notice and Demand to the federal government, as our agent, to cease and desist, effective immediately, mandates that are beyond the scope of its constitutionally delegated powers.

RESOLVED FURTHER, That copies of this resolution be sent to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the Speaker of the House and the President of the Senate of each state's Legislature of the United States of America, and Alabama's Congressional Delegation.

Approved June 20, 1995

Time: 11:46 A.M.

Act No. 95-218

S. 307 – Senators Biddle, Dial, Bedford, Mitchem, Mitchell, Waggoner, Smitherman, Barron, Windom, Steele, Roberts, Amari, Davidson, Armistead, Clay, Figures, Adams, and Myers

AN ACT

To amend Sections 34-22-1, 34-22-4, 34-22-6, 34-22-8, 34-22-20, 34-22-21, 34-22-23, 34-22-42, and 34-22-43, Code of Alabama 1975; to further define and regulate the practice of optometry and to allow approved optometrists to prescribe and administer certain controlled substances for treatment purposes; and to prescribe penalties for violations of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 34-22-1, 34-22-4, 34-22-6, 34-22-8, 34-22-20, 34-22-21, 34-22-23, 34-22-42, and 34-22-43, Code of Alabama 1975, are amended to read as follows:

"§34-22-1.

For the purposes of this chapter, the following terms shall have the respective meanings ascribed by this section:

"(1) BOARD. The Alabama Board of Optometry.

"(2) HUMAN EYE AND ITS ADJACENT STRUCTURES. The eye and all structures situated within the orbit, including the conjunctiva, lids, lashes, and lachrymal system.

"(3) PHARMACEUTICAL AGENTS. Any diagnostic and therapeutic drug or combination of drugs that has the property of assisting in the diagnosis, prevention, treatment, or mitigation of abnormal conditions or symptoms of the human eye and its adjacent structures.

"(4) PRACTICE OF OPTOMETRY. The practice of optometry is a learned profession involving the examination, measurement by objective and subjective means, diagnosis, treatment, and prevention of any departure from the normal of the human eyes, their adjacent structures, and visual system. The practice of optometry includes but is not limited to: The adapting and fitting of all types of lenses or devices, including, contact lenses; the determination of refractive error and shape of the eye and visual, muscular, or anatomical anomalies of the eye through the use of any means including the use of any self testing devices and the use of any computerized or automatic refracting device; the determination and prescribing of spectacle or contact lens parameters; the administering and prescription of pharmaceutical agents rational to the diagnosis and treatment of disease of the human eye and its adjacent structures; the removal of superficial foreign bodies from the human eye and its adjacent structures; the providing of developmental and perceptual therapy for the vision system; the utilization of any method or means to diagnose and treat diseases of the human eye and its adjacent structures as determined and approved by the board, subject to the limitations of this act; the performance of primary eye care procedures or ordering of laboratory tests rational to the diagnosis and treatment of conditions or disease of the human eye and its adjacent structures as determined and approved by the board, subject to the limitations of this act. The practice of optometry shall include the prescribing and administering of narcotic analgesics pursuant to the Alabama Uniform Controlled Substances Act, except for narcotic analgesics classified under Schedule I and II, and any Schedule III pharmaceutical agents that contain Dihydrocodeinone, ("Hydrocodone"). The prescribing or administering of any other Schedule III pharmaceutical agent shall be limited to a prescription, the duration of which does not exceed 96 hours. Notwithstanding any provision of

this act to the contrary, the practice of optometry shall include the prescribing and administering of pharmaceutical agents which are commonly known as steroids. Optometrists are prohibited from performing injections into the eyeball, cataract surgery, muscle surgery, retinal surgery, radial keratotomy, laser surgery, cryosurgery, or any other invasive surgery. The Alabama Board of Optometry shall be a certifying board as defined in Section 20-2-2, except as limited by this act. The practice of optometry shall include the authority to administer benedryl, epinephrine, or other medication to counteract anaphylaxis or anaphylactic reaction. The use and prescribing of pharmaceutical agents for the treatment of the human eye and its adjacent structures shall be limited to those optometrists approved by the board.

"§34-22-4

"(a) It is not the intent of this chapter to prevent any school teacher, welfare worker, state, county, municipality, or other public board, body, agency, institution, or official from determining in the course of their official duties the probable need of visual services; provided, that the aforenamed person or agency does not attempt to examine, diagnose, prescribe, or recommend any particular practitioner and complies with the provisions of Section 38-1-2.

"(b) A license to practice optometry shall not be required for the sale, preparation, or dispensing of eyeglasses or spectacles in a retail optical dispensary or from a store, shop, or other permanently established place of business with an optical department on prescription of a duly licensed physician skilled in diseases of the eyes or a duly licensed optometrist authorized to practice under the laws of this state. Contact lenses may be sold or dispensed in a retail optical dispensary or other permanently established place of business with an optical department only when authorized by an optometrist or ophthalmologist, the prescription therefor contains all necessary data, and the prescription has not expired. This section shall not be construed as authorizing any optician or other person selling eyeglasses or contact lenses on prescription as authorized above to use any instrumentation or determine any data by performing any type of examination or corneal evaluation necessary for the fitting of contact lenses or to use any drugs in relation thereto.

"(c) Nothing in this chapter shall apply in any way to any licensed physician, nor to any physician assistant or ophthalmic assistant program conducted under any accredited state university program, nor to any physician's assistant as defined in Section 34-24-292. Nothing in this chapter shall be construed as preventing

an ophthalmologist from using assistants normally used in his or her practice under his or her direct personal supervision in the office in which the ophthalmologist normally actually practices his or her profession and nowhere else.

"§34-22-6.

"(a) It shall be unlawful for any person to perform any of the following:

"(1) Practice optometry in this state without having a valid, unrevoked, and unexpired license certificate and annual renewal registration certificate as an optometrist.

"(2) Use or attempt to use as his or her own a diploma of an optometric school or college or a license of another person, or a forged diploma or license, or any forged or false identification.

"(3) Sell or offer to sell a diploma conferring an optometric degree or a license granted pursuant to this chapter or prior optometric practice laws, or to procure each diploma or license with intent that it shall be used as evidence of the right to practice optometry by a person other than the one upon whom it was conferred or to whom the license was granted, or with fraudulent intent to alter the diploma or license or to use or attempt to use it when it is so altered.

"(4) Willfully make any false statements in an application for examination for a certificate to practice optometry or for annual renewal registration.

"(5) Use or attempt to use pharmaceutical agents for the treatment of the human eye and its adjacent structures without having approval of the board at the time the treatment is rendered.

"(b) (1) Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than one thousand dollars ($1,000) and, in addition, may be imprisoned in the county jail for a period not to exceed 12 months and shall be subject to having his or her license revoked or suspended as provided in this chapter.

"(2) The board and its members and officers shall assist prosecuting officers in the enforcement of this chapter, and it shall be the duty of the board, its members, and officers, to furnish the proper prosecuting officers with the evidence as they may ascertain necessary to assist them in the prosecution of any violation of this chapter. The board, may for these purposes, make such reasonable expenditures from the funds of the board as it may deem necessary to ascertain and furnish the evidence.

"(3) In addition to criminal penalties, any person violating this Section may be fined up to one thousand dollars ($1000) by the board for each violation. The board may sue, if necessary, to collect the fine.

"(4) The board is entitled to costs and reasonable attorney fees in any civil action in which it prevails.

"(5) Venue for any action brought by the board pursuant to this act is the Circuit Court of Montgomery County.

"§34-22-8.

"(a) Any person, including a licensed optometrist may initiate a charge of violation of the provisions of this chapter or a charge of misconduct by a licensed optometrist by filing with the secretary of the board a written statement under oath of the charge or charges against the accused. If a member of the board files a charge, the member shall not participate in the hearing or disposition of the charge, except to the extent of giving testimony in connection with the charge. The member filing the charge shall not be present during the hearing or deliberation of the charge except to give testimony. A discrete preliminary investigation into the charge or charges shall be made by the board, after which, if the board is reasonably satisfied that the charge or charges are not frivolous, the board shall hear the charge or charges under rules of procedure to be established by the board. A quorum of the board shall be present at all times during the hearing and deliberation and action thereon. A time and place, either within the city of Montgomery, Alabama or the county in which the accused resides for the hearing of the charge or charges shall be fixed by the board as soon as convenient. A copy of the charge or charges, together with a written notice of the time and place of the hearing, and a copy of the rules of procedure adopted by the board for the hearing shall be served on the accused at least 20 days before the date fixed for the hearing, by leaving a copy thereof at his or her last and usual place of residence, by personal service upon the accused, or by forwarding a copy to the accused via United States registered mail, with a return receipt requested, addressed to him or her at his or her last known mailing address, if a resident of the state of Alabama. If the accused is not a resident of Alabama or has departed from the state of Alabama, then notice of the time and place of the hearing shall be published in a newspaper of general circulation in the county where the accused is last known to have resided, three weeks prior to the hearing, setting out the time and place of the hearing. At least five days before the time of the hearing, the accused shall file with the secretary of the board an answer to the written charges together with a list of witnesses

which the accused desires to be subpoenaed for the hearing. At the hearing, witnesses may be examined respecting the charge or charges. The board or the accused, or both, may require the attendance of witnesses, the production of books, records, and papers pertinent to the issues and, either or both may require the secretary of the board to issue a subpoena for any witnesses or a subpoena duces tecum to compel the production of any books, records, papers, or documents, which shall be directed to the sheriff of the county where the witness resides or is to be found. The subpoena shall be served and returned in the same manner as subpoenas in civil cases in the circuit court are served and returned. If any person is subpoenaed to appear before the board and fails to obey the subpoena without reasonable cause, or if any witness upon any hearing before the board refuses to be sworn, or to be examined, or to produce a book, record, paper, or document, as ordered by the board, this fact shall be certified by the board to the circuit court or the judge thereof in the county where the witness resides, and the witness shall be ordered and directed by the court to appear before the board and testify or produce such books, papers, records, or documents as are ordered by the board. At the hearing, the accused may cross-examine the witnesses against him or her, produce witnesses in his or her defense, appear personally or by counsel, or both, and have the testimony taken down by a stenographer, but the expense of counsel and stenographer shall be borne by the accused. A majority of the quorum of members of the board conducting the hearings shall render a decision on the merits of the charge or charges and, if warranted by the evidence, impose appropriate sanctions.

"(b) In all cases of suspension or revocation of licenses or of other disciplinary sanctions imposed by the board, the accused may appeal only to the Circuit Court of Montgomery county, Alabama, not withstanding any other provision of law to the contrary. Except as otherwise provided herein, judicial review of the orders and decisions of the board shall be governed by the provisions of Sections 41-22-1 to 41-22-27, inclusive, the Alabama Administrative Procedure Act.

"(c) Members of the board, and the members of any committee of optometrists impaneled by the board, and any other optometrist and individual making any report or rendering any opinion, or service, or supplying any evidence or information or offering any testimony to the board in connection with a disciplinary investigation or proceeding as authorized in this chapter shall be immune from suit for any conduct with respect to the investigations, actions, hearings, and proceedings.

"§34-22-20.

"(a) Every person desiring to practice optometry in this state shall be 19 years of age, or over, a citizen of the United States, and of good moral character. The person shall have a preliminary education of at least four years of high school or the equivalent and be a graduate thereof, have a minimum of three years of preoptometry, or the equivalent, at an accredited college or university, have completed a course of study in an accredited school or college of optometry which is approved by the board and that requires at least four years of professional study, and have passed all examinations prescribed by the board, including the standard examination after completion of the educational requirements. The standard examination shall consist of tests in practical, theoretical, and physiological optics, in theoretical and practical optometry, orthoptics, ocular anatomy, physiology, pharmacology, pathology, diagnosis and treatment of disease of the human eye and its adjacent structures, general anatomy, hygiene, and any other knowledge the board deems essential to the practice of optometry. The standard examination shall be consistent with the established teaching and recognized textbooks of accredited schools or colleges of optometry.

"(b) The application to take the standard examination shall be upon the form prescribed and furnished by the board and verified by the oath of the applicant, accompanied by a fee to be determined by the board. The fee shall not be more than five hundred dollars ($500).

"(c) The standard examination shall be held at least once in each year if there are any candidates for examination who have applied to the board at least 30 days before the date prescribed for the holding of the examination.

"(d) When the application and accompanying proof are found satisfactory, the board shall notify the applicants to appear for examination at a time and place fixed by the board. Upon passing the standard examination, the applicant shall submit to the board proof that he or she has passed all additional examinations required by the board. The applicant shall also submit any protocols for the use of pharmaceutical agents that the board may require. When these requirements have been met by the applicant and approved by the board, the board shall grant to qualified applicants a license and a license certificate, both of which shall bear a serial number, the full name of the licensee, the date of issuance, the seal of the board, and the signature of the president and secretary of the board. A seal of approval by the board of the use of pharmaceutical agents for the treatment of the human eye and any of its adjacent structures shall be affixed to the license certificate. The board may grant a temporary license under the

circumstances and conditions, and in the form, as may be prescribed by rules and regulations of the board.

"(e) Every license issued, whether permanent or temporary, and every annual registration certificate shall be in the possession of the optometrist to whom it was issued and posted in the office where he or she practices.

"(f) Those persons who hold valid licenses to practice optometry in the State of Alabama on October 1, 1994, shall continue to be so licensed after October 1, 1994, subject to this chapter, regardless of whether they are otherwise qualified to secure a license under this chapter. Optometrists licensed under this section may apply to the board, in a manner prescribed by the board for approval to use pharmaceutical agents for the treatment of disease of the human eye and its adjacent structures. The board shall prescribe requirements to be met by applicants prior to approval by the board, including but not limited to, the requirement that the applicant has successfully completed at least 72 clock hours in the diagnosis and management of disease of the human eye and its adjacent structures within a three-year period preceding application for a license.

"§34-22-21.

"Any person who has successfully passed a standard examination in optometry in any state of the United States or all parts of the examination given by the national board of examiners in optometry and is the holder of a certificate to that effect, issued by the board of that state, or by the national board, and who has a current license to practice optometry in any state in the United States, and has conducted an ethical professional practice of optometry for at least one year, may, at the discretion of the board, and upon the payment of the amount of the regular examination fee, take the standard examination, and upon passing the examination be registered as qualified to practice optometry in this state. Optometrists licensed under this act may apply to the board for approval to use pharmaceutical agents for the treatment of disease of the human eye and its adjacent structures. The board shall prescribe rules and regulations setting forth the manner in which the application shall be made and approval shall be given. Licensed pharmacists of this state shall fill those prescriptions as are ordered by licensed optometrists approved by the board to use pharmaceutical agents.

"§34-22-22.

"(a) All registered optometrists licensed in the state of Alabama are required to take annual courses of study in subjects

relating to the practice of optometry. The length of study shall be prescribed by the board but shall not exceed 25 clock hours in any calendar year. Licensees approved by the board to use pharmaceutical agents shall be required to take not less than 20 nor more than 25 hours of continuing education, half of which shall be in subjects relating to the diagnosis, treatment, and management of disease of the human eye and its adjacent structures. Continuing education courses shall not be graded. Attendance shall be at a course or courses approved by the board. Attendance at any course or courses of study shall be certified to the board upon a form provided by the board and shall be submitted by each registered optometrist at the time he or she makes application to the board for the renewal of license and pays the renewal fee.

"(b) Continuing education requirements shall be completed between October 1 and September 30 of each fiscal year prior to the time for license renewal for the next fiscal year. Upon the failure of any licensee to certify compliance with continuing education requirements for the fiscal year on or before the first day of November, the board shall notify the licensee by registered mail addressed to his or her last address of record that certification has not been received and unless certification is received on or before the first day of January, his or her license and license certificate shall be automatically suspended. If the certification demonstrating compliance with continuing education requirements is not received by the board on or before January 1, the license and license certificate of the licensee which was previously granted shall automatically be suspended. Notwithstanding the foregoing, between October 1 and December 31 of each year, the licensee shall be permitted to complete continuing education requirements which he or she has failed to complete prior to the end of the fiscal year on September 30.

"(c) The license and license certificate shall be reinstated only upon the provision of satisfactory evidence to the board, in a form acceptable to the board, that the continuing education requirements for the one fiscal year next preceding the proposed reinstatement have been satisfied and upon the payment of all fees required to be paid under this chapter.

"(d) Every licensed optometrist who desires to continue the practice of optometry in the state shall annually, on or before the first day of October, pay to the secretary of the board a renewal fee of one hundred sixty dollars ($160), for which the licensee shall receive a renewal of the registration. Every licensed optometrist approved by the board to use pharmaceutical agents shall pay an additional fee of one hundred dollars ($100). The licensee shall sign and verify the accuracy of the registration and certify his or

her compliance with the continuing education requirements of the board for renewal on a form provided by the board. Upon submission of the completed form prescribed by the board, together with the aforementioned fee, the licensee shall receive the current annual registration certificate authorizing him or her to continue the practice of optometry in this state for a period of one year.

"(e) Any license and license certificate previously granted shall automatically be suspended if the holder fails to secure the annual registration certificate by January 1 each year. Any optometrist whose license is automatically suspended by reason of failure, neglect, or refusal to secure the annual registration certificate shall be reinstated by the board upon payment of a penalty fee of two hundred dollars ($200) plus all accrued annual registration fees accompanied with the prescribed form for annual registration of the license.

"(f) Upon failure of any licensee to file application for the annual registration certificate and pay the annual registration fee on or before the first day of November each year, the board shall notify the licensee by certified or registered mail addressed to his or her last address of record that the application and fee have not been received and that, unless the application and fee are received on or before the first day of January of the following year, the license and license certificate shall be automatically suspended.

"(g) The board may waive annual registration and the payment of fees while any licensee is prevented from practicing optometry by reason of physical disability or on temporary active duty with any of the armed forces of the United States. The waiver of fees shall be effective so long as the disability or temporary active duty continues.

"§34-22-23.

"Any of the following shall constitute grounds for revocation of license or suspension of license for a definite period of time, for a private or public reprimand, for probation, for the levying and collection of an administrative fine not to exceed one thousand dollars ($1,000) per violation, for the institution of any legal proceedings necessary to enforce the provisions of this chapter:

"(1) Fraud, deceit, dishonesty, or misrepresentation, whether knowingly or unknowingly, in the practice of optometry or in obtaining any license, license certificate, annual registration certificate, or other thing of value.

"(2) Incompetency.

"(3) Conviction of a felony or a misdemeanor which involves moral turpitude.

"(4) Gross immorality.

"(5) Habitual drunkenness or addiction to the use of morphine, cocaine or other drugs having similar effect.

"(6) Insanity, as adjudged by a court of competent jurisdiction.

"(7) Directly or indirectly employing, hiring, procuring, or inducing a person, not licensed to practice optometry in this state, to so practice.

"(8) Directly or indirectly aiding or abetting in the practice of optometry any person not duly licensed to practice under this chapter.

"(9) Directly or indirectly employing solicitors, canvassers, or agents for the purpose of obtaining patronage.

"(10) Willfully or repeatedly violating any of the provisions of this chapter.

"(11) Practicing or attempting to practice optometry under a name other than one's own name as set forth on the license certificate.

"(12) Lending, leasing, renting, or in any other manner placing his or her license or license certificate at the disposal or in the service of any person not licensed to practice optometry in this state.

"(13) Soliciting patients by fraudulent or misleading advertising of any kind, nature, or description.

"(14) Failing to comply with the continuing education requirements established by the board pursuant to the provisions of this chapter.

"(15) Practicing optometry in any temporary office, apart from a regularly established office; provided, that a licensed optometrist may establish a branch office if the branch office is duly equipped with the instruments necessary, according to rules and regulations promulgated by the board, to make complete optometric examination; provided further, that the branch office is in personal and direct charge of the optometrist establishing it or a licensed associate.

"(16) Practicing optometry as the employee of any person, group, association, or corporation on the basis of any fee splitting or on any basis which has the effect of any such agreement; provided, that the provisions of this subdivision shall not be so construed as to prohibit a licensed optometrist from participating in health maintenance organizations composed of licensed professional practitioners in the health care field, other similar ethical

professional health care groups, or in professional associations or professional corporations organized under Alabama law or penalize him or her for participation; provided further, that the provisions of this subdivision shall not be so construed as to prohibit a licensed optometrist from practicing as the partner, employee, or associate of another licensed optometrist or a physician.

"(17) Violating any other standards of unprofessional conduct as may be adopted as rules by the board.

"§34-22-42.

"The board shall exercise and perform, subject to this chapter, each of the following powers and duties:

"(1) Conduct examinations at least once each year to ascertain the qualifications and fitness of applicants for licenses to practice optometry.

"(2) Prescribe rules and regulations for conducting and administering an examination of applicants for licensing as optometrists and to effectuate this chapter.

"(3) Institute, upon a complaint or petition, hearings of charges against licensed optometrists or other persons as provided in this chapter.

"(4) Institute legal proceedings for violations of this chapter.

"(5) Grant and deny licenses in conformity with this chapter, including applications for approval to use pharmaceutical agents.

"(6) Formulate rules and regulations by which the board shall determine which optometry schools and colleges in or out of the State of Alabama have been duly accredited by a recognized and properly authorized accrediting agency and which accredited schools or colleges shall be approved by the board.

"(7) Establish standards of continuing education which shall be deemed a requisite to the renewal of licenses of applicants who are otherwise qualified to practice optometry in the State of Alabama.

"(8) Keep a register of optometrists containing the names and addresses of all persons to whom license certificates, temporary licenses, approvals for use of pharmaceutical agents, and limited licenses have been issued in the State of Alabama, the date of the issuance, the place or places of business in which each optometrist is engaged, and all renewals, revocations, and suspensions of licenses and certification.

"(9) Administer oaths and affirmations of witnesses, issue subpoenas to compel the attendance of witnesses and the production

of all necessary papers, books, records, documentary evidence, and materials in any hearing, investigation, or other proceeding before the board.

"(10) Employ or appoint an executive director, clerical personnel, and legal advisors or counsel to assist in implementing this chapter when there is a need for those services and when funds are available for those purposes. The executive director may be a licensed optometrist in this state, but may not, while serving as the executive director, also serve as a member of the board of optometry. The executive director shall not be subject to the State Merit System.

"(11) Prescribe rules and regulations establishing a program of internship as a requisite to application for license, if the board deems such a program advisable.

"(12) Prescribe rules and regulations establishing circumstances and conditions upon which temporary licenses may be issued by the board and the terms and conditions of the temporary licenses.

"(13) Prescribe rules and regulations subject to the limitations of this act for the utilization of methods or means of treatment recognized as being within the scope of the practice of optometry.

"(14) Prescribe rules and regulations subject to the limitations of this act necessary for the performance of eye care procedures reasonably necessary to the treatment of conditions or diseases of the human eye and its adjacent structures.

"§34-22-43.

"(a) The secretary of the board shall keep a registry in which shall be entered the names of all persons to whom temporary licenses, limited licenses, license certificates, approvals for the use of pharmaceutical agents, and annual registration certificates have been granted under this chapter, the numbers of the license certificates and annual registration certificates, the dates of granting the same, and other matters of record and shall keep a true and correct copy of the minutes of all board meetings, and the book so provided and kept shall be the official book of records.

"(b) A photostatic copy of.the records, or a copy of the records certified by the secretary and under the seal of the board, shall be admitted in any of the courts of this state as prima facie evidence of the facts contained in the records and in lieu of the original records.

"(c) A certificate under the hand of the secretary and the seal of the board that there is not entered in the record books the

name, number of, and date of granting the license certificate or renewal license certificate to a person charged with a violation of any of the provisions of this chapter shall be prima facie evidence of the facts contained therein. The certificates shall be admitted in any of the courts of this state in lieu of the records of the board.

"(d) The original books, records, and papers of the board shall be kept at the office of the secretary of the board, which office shall be at a place designated by the board.

"(e) Upon the payment of a reasonable fee established from time to time by the board, the secretary of the board shall mail a copy of the most recent registry to any person requesting it."

Section 2. All laws or parts of laws which conflict with this act are repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 20, 1995

Time: 12:15 P.M.

Act No. 95-219 H. 514 – Rep. Millican

AN ACT

Relating to Marion County; authorizing the sheriff to operate a jail canteen; authorizing the sheriff to retain profits accruing from the pay telephones, vending machines, and canteen in the county jail in a special fund to be used by the sheriff for law enforcement purposes; and confirming and ratifying certain prior actions.

Be It Enacted by the Legislature of Alabama:

Section 1. The Sheriff of Marion County may operate a jail canteen for the benefit of prisoners in county custody. The sheriff shall be responsible for the operation of the canteen.

Section 2. The sheriff may retain the profits derived from the pay telephones, vending machines, and canteen located in the county jail in a special fund known as the Law Enforcement Fund which shall be used by the sheriff for law enforcement purposes in the county. The fund shall be managed exclusively by the sheriff.

Section 3. The sheriff shall prepare an annual report detailing expenditures made during each fiscal year from the Law Enforcement Fund. A copy of the report shall be filed no later than 60 days after the close of each fiscal year with the county commission, the presiding judge of the circuit court of the county, and the county district attorney.

Section 4. Any actions relating to the operation of pay telephones, vending machines, or a canteen in the county jail prior to the effective date of this act are ratified and confirmed. Any existing profits derived from the operation of pay telephones, vending machines, or a canteen, or any combination of these services, in the county jail prior to the effective date of this act shall be deposited into the Law Enforcement Fund created by this act.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 20, 1995

Time: 5:30 P.M.

Act No. 95-220 H. 432 – Rep. Dolbare

AN ACT

Relating to Washington County; providing for the assessment of an additional fee on all documents submitted for recording in the Probate Court which are subject to a deed or mortgage tax; and providing for the deposit of the funds into the Washington County General Fund on a monthly basis to be used for general county purposes including, but not limited to, computerization of county courthouse functions.

Be It Enacted by the Legislature of Alabama:

Section 1. The Judge of Probate of Washington County shall assess and collect an additional fee of ten dollars ($10) per instrument for all documents submitted for recording in Probate Court which are subject to a deed or mortgage tax.

Section 2. The funds generated from the additional recording fee levied by this act and any interest earned thereon, shall be deposited into the Washington County General Fund by the judge of probate on a monthly basis and shall be used for general county purposes including, but not limited to, the computerization of courthouse functions for county officials.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on June 21, 1995 without approval by the Governor.

Act No. 95-221 H. 452 – Rep. Black (L)

AN ACT

Relating to Greene County; providing for an additional special transaction fee on public business filed and transacted in the office of the judge of probate; and providing for the disposition of funds from the additional fees.

Be It Enacted by the Legislature of Alabama:

Section 1. In additional to all other fees and costs provided by law, a special transaction fee in an amount determined by the county commission, but not exceeding four dollars ($4), shall be paid to the Greene County Judge of Probate when any public business is transacted in his or her office. The special additional transaction fees shall be collected by the judge of probate and deposited in the county general fund.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

This Act became a law under Section 125 of the Constitution on June 21, 1995 without approval by the Governor.

Act No. 95-222 H.J.R. 263 – Rep. Gaines

HOUSE JOINT RESOLUTION

COMMENDING THE REVEREND RICHARD H. VIGNEULLE FOR HIS FAITHFUL SERVICE AS PASTOR OF SHADES MOUNTAIN INDEPENDENT CHURCH, BIRMINGHAM, ALABAMA.

WHEREAS, Reverend Richard H. Vigneulle has faithfully served the congregation of Shades Mountain Independent Church in Birmingham, Alabama, as their pastor for 25 years; and

WHEREAS, Pastor Vigneulle left a promising career in the business world to answer the call to become the founding pastor of what was then a store-front ministry; and

WHEREAS, with profound divine blessing, and through the leadership, vision, and perseverance of Pastor Vigneulle, that new church grew over 25 years to be a strong, consistent, and effective voice of hope and truth throughout Birmingham and the world; and

WHEREAS, during Pastor Vigneulle's leadership, Shades Mountain Independent Church has developed and maintained a program of support for foreign missions that has trained and placed dozens of permanent full-time missionaries from the Birmingham congregation in posts around the world, and will provide financial support for those and many dozens of other missionaries in excess of $664,000 during 1995 alone; and

WHEREAS, during Pastor Vigneulle's leadership, Shades Mountain Independent Church has also instituted and sustained a program of evangelism and discipleship that has given confidence of eternal security to literally thousands of people and generated hundreds of people committed to full-time ministry in churches and schools throughout this country and on many foreign fields; and

WHEREAS, during Pastor Vigneulle's leadership, Shades Mountain Independent Church founded Shades Mountain Christian School, and has developed that school into one of the finest elementary and secondary educational institutions in our state, whose students routinely excel in academic, athletic, cultural and spiritual matters; and

WHEREAS, during Pastor Vigneulle's leadership, Shades Mountain Independent Church has successfully endeavored to present consistently and continually a message of hope and a source of compassion and support to all in need; and

WHEREAS, Pastor Vigneulle has selflessly selected, trained, and endowed with his personal blessings, a successor who will lead the congregation of Shades Mountain Independent Church into the 21st Century with enthusiasm and purpose; and

WHEREAS, effective with the anniversary of his twenty-fifth year of full-time ministry and service at Shades Mountain Independent Church, Reverend Richard H. Vigneulle will retire from the position of pastor during a week-long celebration of the church's 25 years of ministry; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in consideration of these efforts and accomplishments, and upon the occasion of his retirement and the 25th Anniversary of his service to mankind and the congregation of Shades Mountain Independent Church, we hereby extend highest commendation to Reverend Richard H. Vigneulle, to whom a copy of this resolution shall be presented as an expression of our heartiest congratulations, sincere

appreciation, and hopeful encouragement and exhortation to many years of continued service to the never ending causes of the faith.

Approved June 21, 1995

Time: 2:15 P.M.

Act No. 95-223 H.J.R. 264 – Rep. Gaines

HOUSE JOINT RESOLUTION

HONORING SHADES MOUNTAIN INDEPENDENT CHURCH OF BIRMINGHAM, ALABAMA, ON THE OCCASION OF ITS 25TH ANNIVERSARY.

WHEREAS, it is with great pride and utmost pleasure that the Alabama Legislature honors Shades Mountain Independent Church of Birmingham, Alabama, on the occasion of its 25th Anniversary Celebration, Sunday, July 2, 1995; and

WHEREAS, the ministry of Shades Mountain Independent Church has benefited many thousands of people in Birmingham and throughout the world, and has demonstrated extraordinary concern for people here and abroad through its aggressive programs of evangelism, discipleship, and foreign mission which have provided comfort and hope to untold numbers of people throughout the world; and

WHEREAS, Shades Mountain Independent Church has maintained substantial programs on financial, emotional, and spiritual support and comfort to individuals and families in times of distress and need; and

WHEREAS, Shades Mountain Independent Church has developed and maintained Shades Mountain Christian School as an elementary and secondary school of extraordinary scholastic, athletic, cultural, and spiritual quality, and the students of which have excelled in all fields and callings; and

WHEREAS, in all things Shades Mountain Independent Church has faithfully endeavored to be a positive force for good in the community and in our state regardless of the circumstances involved or the sacrifices required; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and heartiest congratulations to Shades Mountain Independent Church on the occasion of its 25th Anniversary Celebration, July 2, 1995, and do furthermore direct

that a copy of this resolution be presented as evidence of our sincere appreciation and warmest personal regard.

Approved June 21, 1995

Time: 2:16 P.M.

Act No. 95-224 H. 80 – Rep. Morrow

AN ACT

To propose an amendment to the Constitution of Alabama of 1901, to provide for the election of the Franklin County Superintendent of Education by the qualified electors residing within the jurisdiction of the Franklin County School System.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

(a) The Franklin County Superintendent of Education shall be elected by the qualified electors residing in the jurisdiction of the Franklin County School System. The initial county superintendent of education elected pursuant to this amendment shall be elected at the general election in 1996. The election shall be conducted in the same manner as the election of other county officers. The initial county superintendent of education elected pursuant to this amendment shall serve upon election until June 30, 2001. A successor shall be elected at the general election in 2000 and take office on July 1, 2001. Successors shall serve a term of four years from July 1 of the year following election and shall be elected at the general election immediately preceding the expiration of the term of the incumbent. The Franklin County Superintendent of Education shall be a resident of the area served by the Franklin County School System at the time of his or her election and shall possess all the qualifications of a county superintendent of education provided by general law. The Legislature may, from time to time, enact laws to implement and facilitate the purposes of this amendment.

(b) This amendment shall not become effective unless approved by a majority of the qualified electors residing in the jurisdiction of the Franklin County School System and a majority of the qualified electors of Franklin County.

Section 2. A special election upon the proposed constitutional amendment shall be held in Franklin County on a date to be set by the judge of probate of the county three months after the final adjournment of the session of the Legislature at which this

amendment was proposed. In the event there is a special constitutional amendment election after the final adjournment of the session at which this amendment was proposed, the judge of probate shall set the election on this proposed amendment on the same date. The special election shall be held in accordance with Amendment 555 of the Constitution of Alabama of 1901, and the general election laws of this state. This election shall constitute a simultaneous referendum in the affected subdivision. Any cost of the election shall be paid by the county commission.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Franklin County, proposing a amendment of the Constitution of Alabama of 1901, to provide for election of Franklin County Superintendent of Education by the qualified electors residing within the jurisdiction of the Franklin County School System.

(Proposed by Act _____)"

This description shall be followed by the following language:

"Yes ( ) No ( )."

CONSTITUTIONAL AMENDMENT

Passed the House May 3, 1995

Passed the Senate as amended June 20, 1995

House concurred in Senate amendment June 20, 1995

Act No. 95-225 H.J.R. 256 – Reps. Clouse, Seibenhener, Baker, Carothers

HOUSE JOINT RESOLUTION

COMMENDING THE G. C. WALLACE STATE COMMUNITY COLLEGE GIRLS SOFTBALL TEAM FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, it is with great personal pleasure that the Alabama Legislature warmly congratulates the Wallace State Community College Girls Softball Team for outstanding accomplishments during the 1994-1995 season; and

WHEREAS, under the guidance of Coach Sherrill Hicks, this talented group of ladies dominated this softball season finishing 4th in the Nation and 2nd in the State of Alabama, earning the

widespread respect and admiration for their hard work and dedication; and

WHEREAS, the members of the Wallace State Community College Girls Softball Team deserve special recognition for their impressive accomplishments, and they are: Ansley Beggs, Beth Jordan (All State Tournament Team, All Regional Team), Valisha Kirkland, Melissa Lee, Michelle Lee, Donna Lee, Beverly Reaves (All Regional Team), Ivy Hicks, Amanda Oliver, Lawanda Harris, Leigh Anne Collins, Mildred Peterman, Kim Barnes, Christy Carter, Katrina Johnson (National Tournament All Tournament Team), Crystal McDurmont, Kim Glanton, Kim Byrd, Michelle Miller, and Elizabeth Lawler; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and heartiest congratulations to the G. C. Wallace State Community College Girls Softball Team for outstanding achievement, and do furthermore direct that a copy of this resolution be provided as evidence of our sincere pride and esteem.

Approved June 22, 1995

Time: 8:30 A.M.

Act No. 95-226 H.J.R. 260 – Rep. Ford

HOUSE JOINT RESOLUTION

COMMENDING KEEP ALABAMA BEAUTIFUL FOR OUTSTANDING SERVICE TO THIS STATE.

WHEREAS, it is with great pride and pleasure that the Alabama Legislature highly commends the Keep Alabama Beautiful Program whose headquarters are located in Gadsden, Alabama, for outstanding service to the State of Alabama; and

WHEREAS, the Keep America Beautiful, Inc., organization has been recognized nationally; and

WHEREAS, the programs of Keep America Beautiful, Inc., educate the public and change their attitude and behavior towards recycling, litter, and other environmental issues; and

WHEREAS, Keep Alabama Beautiful is the state affiliate of Keep America Beautiful, Inc., representing communities in Choctaw, Etowah, Limestone, Jefferson, Madison, Marshall, Mobile, Montgomery, and Morgan Counties; and

WHEREAS, education of all Alabamians regarding the importance of protecting the environment is an essential step toward insuring a clean environment for future generations; and

WHEREAS, Keep Alabama Beautiful has presented workshops and curricula that are used in approximately 50 percent of the counties in the State of Alabama, reaching tens of thousands of students, teaching young people about proper handling of all types of wastes; and

WHEREAS, the Keep Alabama Beautiful Organization has made significant contributions to address litter problems, open dumps, and beautification projects of the state which have improved the overall quality of life and economic development in the state; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby express deep appreciation to Keep Alabama Beautiful and all of the affiliated organizations located throughout the state, and do furthermore encourage all state agencies to utilize the programs and expertise of the Keep Alabama Beautiful Organization for whom a copy of this resolution shall be provided.

Approved June 22, 1995

Time: 8:31 A.M.

Act No. 95-227 H.J.R. 261 – Rep. McKee

HOUSE JOINT RESOLUTION

COMMENDING THE ALABAMA CHRISTIAN ACADEMY GIRLS SOFTBALL TEAM FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, it is with great personal pleasure that the Alabama Legislature recognizes the outstanding accomplishments of the Alabama Christian Academy Girls Softball Team, the 1995 2A State Champions; and

WHEREAS, under the guidance of Coach Denise Ainsworth and Assistant Coach Patti Turner, the Lady Eagles have dominated their competition throughout the season finishing with an impressive overall record of 25-13, and a sectional record of 14-0; and

WHEREAS, the Alabama Christian Academy Girls Softball Team has worked tirelessly, and their hard work and dedication is certainly worthy of this special recognition; and

WHEREAS, the members of the Alabama Christian Academy Girls Softball Team are: Christy Cheatam, Hayley Entrekin, Sonya Henderson, Tara Hyte, Amber Kelly, Hannah Kilpatrick, Connie Manley, Dinah Pigg, Amy Price, Lauren Russell, Jennifer Stowe, Alana Turner, Blakey Vinson, Alison Ward, and statistician, Leanne Breshears; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and warmest congratulations to the Alabama Christian Academy Girls Softball Team, the 1995 2A State Champions, and do furthermore direct that a copy of this resolution be provided as evidence of our pride and esteem for appropriate presentation and display at Alabama Christian Academy.

Approved June 22, 1995

Time: 8:32 A.M.

Act No. 95-228 H.J.R. 262 – Rep. McKee

HOUSE JOINT RESOLUTION

COMMENDING THE ALABAMA CHRISTIAN ACADEMY BOYS BASEBALL TEAM FOR OUTSTANDING ACHIEVEMENTS.

WHEREAS, it is with great personal pleasure that the Alabama Legislature recognizes the Alabama Christian Academy Boys Baseball Team, the 1995 Alabama State 2A Champions; and

WHEREAS, under the guidance of Head Coach Chris Goodman and Assistant Coach Don Gilliam, the Eagles finished this 1995 season with a spectacular record of 28-8; and

WHEREAS, the members of the Alabama Christian Academy Boys Baseball Team are well-deserving of this special recognition in honor of their tremendous dedication and tireless efforts throughout the season, and they are: Chris Athey, Danny Boyd, Jason Davis, Michael Dismukes, John Faulk, Patrick Fuller, Carey Gillis, Jon Herring, Allen Hill, Chris Lewis, Scotty Melton, Lee Millergren, Chris Nolan, Craig Pugh, Jonathon Redden, Corey Solomon, Scott Welch, Hunter Cook, Michael Fuller, Statistician Al Millergren, and Trainer Tom McGilberry; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and warmest congratulations to the

Alabama Christian Academy Boys Baseball Team for an impressive season and for earning the title of the 1995 Alabama State 2A Champions, and do furthermore direct that a copy of this resolution be provided for appropriate presentation and display at Alabama Christian Academy.

Approved June 22, 1995

Time: 8:33 A.M.

Act No. 95-229 H.J.R. 267 – Rep. Carter

HOUSE JOINT RESOLUTION

COMMENDING KEN DAVID OF ATHENS, ALABAMA, AS 1995 ALABAMA VETERAN OF THE YEAR.

WHEREAS, it is with great pride that the Alabama Legislature notes the selection of Ken David of Athens, Alabama, as 1995 Alabama Veteran of the Year by the State Council of the Vietnam Veterans of America (VVA); and,

WHEREAS, Mr. David, who was honored at the annual Awards Banquet of the State Council of the VVA held recently in Gadsden, served his country with valor and distinction as a veteran of the Vietnam War and as a member of the United States Army for 21 years until his retirement in 1991; and

WHEREAS, Mr. David is a member of VVA Chapter 511, American Legion Post 49, and vice commander of Veterans of Foreign Wars Post 4765, and has served as Limestone County Veterans Service Officer since his appointment in 1992; and

WHEREAS, he has also given generously of his time and talents in service to his community and his fellowman in such capacities as president of the Athens-Limestone County Foundation on Aging, as publicity chairman and finance chairman of the Limestone County Republican Executive Committee, and as a member of the Board of Administrations of the First United Methodist Church of Athens, to name a few; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That on his selection as Veteran of the Year, and in tribute to exemplary service to community, state, and nation, we hereby most highly commend Ken David of Athens, Alabama, for whom a copy of this resolution of sincere regard and esteem shall be provided.

Approved June 22, 1995

Time: 8:34 A.M.

Act No. 95-230 H.J.R. 227 – Rep. Fuller

HOUSE JOINT RESOLUTION

NAMING THE NEW BRIDGE ON COUNTY ROAD 379 IN LEE COUNTY, THE "HUGH BRYANT BYRD BRIDGE."

WHEREAS, Hugh Bryant Byrd, a cotton and cattle farmer, and operator of a cotton gin until his retirement, has always demonstrated interest and concern for the good and well-being of the Beulah-Lee County community, and the issues which affect it; and

WHEREAS, over the years, he has provided invaluable leadership and support in civic and community affairs in such capacities as a member of the Lee County Red Cross Board of Directors, the Lee County Board of Education and the Agricultural Stabilization and Conservation Committee for 20 years; as a trustee of Beulah High School; as chairman of the trustees and Sunday School Secretary of the Beulah United Methodist Church; and as a member of Masonic Lodge #455 for 55 years, and treasurer for 30 years; he also was instrumental in organizing the Beulah Volunteer Fire Department and in organizing a major fund raiser for the completion of the Beulah Community Building in 1934; and

WHEREAS, a lifelong resident of Lee County, Mr. Byrd attended Auburn University and served as a member of the 90th Infantry Division during World War II, for which he received the Purple Heart; and

WHEREAS, he was married to the late Nellie Sellers Byrd, and is the father of one daughter, Elizabeth, and a grandparent; and

WHEREAS, Mr. Byrd was named Lee County Farmer of the Year and honored as Farm Family of the Year by The Birmingham News in 1965; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in tribute to his outstanding contributions and service to the Beulah-Lee County community, we hereby name and designate the new bridge on County Road 379 in Lee County, the "Hugh Bryant Byrd Bridge."

BE IT FURTHER RESOLVED, That the proper officials are hereby authorized to erect and maintain appropriate signs and markers designating said bridge the "Hugh Bryant Byrd Bridge."

Approved June 22, 1995

Time: 8:35 A.M.

Act No. 95-231 H.J.R. 242 – Reps. Kennedy, Buskey, Clark (W), Mitchell

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF REVEREND ROBERT L. HOPE OF PLATEAU, ALABAMA.

WHEREAS, it is with great sadness and regret that the Alabama Legislature notes the lamentable death of Reverend Robert L. Hope of Plateau, Alabama, on Sunday, June 4, 1995; and

WHEREAS, Reverend Hope, who was born May 7, 1905, to James and Pattie Hope of Magnolia, Alabama, attended Magnolia High School and Cedar Grove Theology Seminary, and served as pastor of First Baptist Church in Mt. Vernon, Alabama, and most recently as assistant pastor of Yorktown Missionary Baptist Church in Plateau, where he was originally licensed and ordained; and

WHEREAS, serving in the Mobile County Public Schools for many years, Reverend Hope was active in countless civic, community and political activities, serving as president of the Mobile County Training School PTA, Mobile County-Wide PTA, and the Non-Partisan Voters League to name but a few; he was furthermore appointed to serve as a member of the Jury Commission of Mobile County, the Campaign Manager of Mobile by Former Governor Wallace, and the Victims Justice Committee by the District Attorney's Office of Alabama; and

WHEREAS, Reverend Hope made invaluable contributions to his community and this state, and enhanced the lives of the many he inspired and encouraged by his warm and gentle presence; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most grievously mourn the death of Reverend Robert L. Hope of Plateau, Alabama, and extend our heartfelt sympathy to his wife, Zeola King Hope, eleven children, and other close family and friends for whom a copy of this resolution shall be provided.

Approved June 22, 1995

Time: 8:36 A.M.

Act No. 95-232 H.J.R. 244 – Reps. Clark (W), Mitchell, Buskey, Kennedy

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF MINNIE B. TURNBO OF PRICHARD, ALABAMA.

WHEREAS, it is with deepest sorrow and regret that the Legislature of Alabama records the lamentable death of Mrs. Minnie B. Turnbo of Prichard, Alabama, on May 26, 1995, at the age of 114 years; and

WHEREAS, born May 10, 1881, in Chilton County, Alabama, Mrs. Turnbo, who was believed to be the oldest woman in the state, was a dearly beloved member of her community and a prominent Alabamian; and

WHEREAS, her birthday each year was an occasion for recognition and celebration; proclamations came from dignitaries from around the state, the City of Prichard proclaimed the day Minnie B. Turnbo Day, and residents from throughout the city came to the Prichard Housing Authority to honor and pay tribute to the town's most celebrated citizen; and

WHEREAS, Minnie Turnbo was a lady of true and noble character, and a faithful and devoted Christian to whom her Lord and Savior Jesus Christ was the center of her life; and

WHEREAS, over the years, her reverence for God would direct her path, and her philosophy of love, brotherhood, and service to God would serve as a testament of her life, and as an example to all those whose lives she touched; and

WHEREAS, in the death of Mrs. Minnie Turnbo the Prichard community, her many friends, and her beloved family have indeed suffered an inconsolable loss which leaves them sorely bereft in grief, but with loving memories to sustain them; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as we bow in submission to the will of God, we give thanks for the blessings of the life and service of Mrs. Minnie B. Turnbo, and extend our deepest sympathy to all of her family, for whom a copy of this resolution of sincere condolence shall be provided.

Approved June 22, 1995

Time: 8:37 A.M.

Act No. 95-233 H.J.R. 245 – Rep. Thomas (J)

HOUSE JOINT RESOLUTION

COMMENDING MRS. LESSIE HUDSON OF ANNEMANIE, ALABAMA, ON THE OCCASION OF HER 100TH BIRTHDAY.

WHEREAS, it is with great personal pride and pleasure that the Alabama Legislature honors Mrs. Lessie Hudson of Annemanie, Alabama, on the occasion of her 100th birthday, June 20, 1995; and

WHEREAS, a native of Wilcox County, Alabama, Mrs. Hudson is the widow of the late Joseph Hudson, and a loving and devoted mother of seven children; and

WHEREAS, a staunch upholder, Mrs. Hudson served in her capacities as a dedicated member and active participant of Canaan Cumberland Presbyterian Church, and is now enjoying residing with one of her beautiful daughters; and

WHEREAS, Mrs. Lessie Hudson is indeed a warm and gracious lady who deserves the utmost praise for her many notable contributions to her church and community; it is truly an honor and privilege to have the opportunity to celebrate this momentous occasion of her 100th birthday; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend warmest congratulations and highest commendation to Mrs. Lessie Hudson of Annemanie, Alabama, on the occasion of her 100th birthday, June 20, 1995, and do furthermore direct that she receive a copy of this resolution with sincerest best wishes for many more years of good health and happiness.

Approved June 22, 1995

Time: 8:38 A.M.

Act No. 95-234 H.J.R. 247 – Rep. Sanderford

HOUSE JOINT RESOLUTION

HONORING DR. HARRISON MCMAINS OF HUNTSVILLE, ALABAMA, ON THE OCCASION OF HIS 90TH BIRTHDAY.

WHEREAS, the Alabama Legislature joins with the Huntsville community in recognizing Dr. Harrison McMains on the momentous occasion of his 90th birthday, June 15, 1995; and

WHEREAS, a native of Baltimore, Maryland, Harrison McMains earned his A.B. degree from Lynchburg College in Virginia where, some years later in 1978, he would be inducted into the Hall of Fame as the college's first four-letter student; and

WHEREAS, following a variety of pursuits, including the New York stage, he entered Vanderbilt University in 1930 to study for the ministry, earning an M.A. degree in Sociology and a B.D. in Religion; in later years he was bestowed an honorary Doctor of Divinity degree from Culver Stockton College; and

WHEREAS, over the many years of his long and dedicated ministry, Dr. McMains served pastorates in Jasper, Alabama, West Point, Georgia, Atlanta, and Huntsville and, in each, was concerned not only with the spiritual needs of his congregation, but also with the welfare of the community and its youth; and

WHEREAS. in Jasper. his first pastorate, he was an active member of the Rotary Club, which he served as president, he was instrumental in the establishment of the Jasper Boys' Club, served as president of the Walker-Lamar Scout Council, and was honored with the Silver Beaver award in 1941; and

WHEREAS, during his tenure in Atlanta, he served successively as minister of the First Christian Church and as Director of Greater Atlanta Council of Churches and, over this 15-year period, served as chaplain of the school board, as moderator of a TV show, "This is Your Town," helped to organize and served as an honorary director of the Atlanta Girls' Club, and received the Keystone Award for 22 years of service to the Boys' Clubs of America; and

WHEREAS, Dr. McMains returned to the ministry as pastor of the First Christian Church in Huntsville in 1960, and, in the years following, has provided leadership and support to such organizations as United Way, Citizens Advisory Committee, Boys' and Girls' Club, Red Cross, and Rotary Club, among others; he has also served as chaplain of the Huntsville Quarterback Club, and as co-host of the weekly TV show, "Viewpoint"; and

WHEREAS, in tribute to his exemplary contributions and service to the community, Dr. McMains has been the recipient of such notable awards as the Brotherhood Award from the National Conference of Christians and Jews, the Martin Luther King, Jr. Unity Award, the Silver Medallion by the Huntsville Boys' and Girls' Club, and the Community Service Award by the Interfaith Mission Service, and was designated a Paul Harris Fellow by the Huntsville Rotary Club; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That on the occasion of his 90th birthday, we hereby extend heartiest congratulations to Dr. Harrison McMains, a man of true and noble character who has given so much to the good and well-being of the community and his fellow man.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided as an expression of our tribute and esteem and sincere best wishes for continued good health and happiness in the years to come.

Approved June 22, 1995

Time: 8:39 A.M.

Act No. 95-235 H.J.R. 252 – Reps. Carothers, Turner, Laird, Layson, Dolbare, Gaston, Allen, Baker, Bandy, Black (L), Black (M), Box, Boyd, Burke, Buskey, Carns, Carter, Clark (J), Clark (W), Clouse, Collins, Crigler, Curry, Dean, Drake, Dukes, Flowers, Ford, Fuller, Gaines, Galliher, Gipson, Graham, Guin, Hall (A), Hall (L), Hamilton, Hammett, Haney, Hawk, Hawkins, Hayden, Hill, Hilliard, Hinshaw, Hogan, Holmes, Hooper, Houston, Jackson, Johnson (E), Johnson (R), Jorgensen, Kennedy, Knight (A), Knight (J), Letson, Lindsey, Maull, McAdory, McClammy, McDaniel, McKee, McMillan, Melton, Millican, Minnifield, Mitchell, Moore, Morrison, Morrow, Morton, Murphree, Newton (C), Newton (D), Page, Papucci, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Pringle, Reed, Robinson, Rogers (J), Rogers (M), Sanderford, Sanderson, Seibenhener, Sims, Smith, Spratt, Starkey, Thomas (D), Thomas (J), Townsend,

Turnham, Vance, Venable,
Warren, White, Willis, Wren

HOUSE JOINT RESOLUTION

COMMENDING DENNY H. "JACK" BREWER, JR., FOR OUTSTANDING SERVICE ON THE OCCASION OF HIS RETIREMENT.

WHEREAS, it is with great pride and pleasure that the Alabama Legislature honors Denny H. Brewer, Jr., better known as Jack Brewer, on the occasion of his retirement following 33 years of dedicated service for the Olin Corporation; and

WHEREAS, Jack Brewer has well served the Olin Corporation as Director of State Government Relations, and has been a very active participant in numerous organizations close to the hearts of the Legislature such as the NCSL, CSG, and SGAC; and

WHEREAS, Mr. Brewer has represented the Olin Corporation as a respected professional at the Chemical Manufacturers Association, the Chlorine Chemistry Council, and many other trade associations; and he has furthermore ably served as a registered lobbyist in eight different states; and

WHEREAS, Mr. Brewer intends to enjoy his retirement with his lovely wife, Carolyn Brewer, who can be attributed in large part for Jack's impressive successes; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and warmest congratulations to our friend and respected advisor, Mr. Denny H. Brewer, upon the date of his retirement, and do furthermore direct that a copy of this resolution be provided with best wishes for every future happiness and the best of luck both on and off the golf course.

Approved June 22, 1995

Time: 8:40 A.M.

Act No. 95-236 H.J.R. 253 – Rep. Flowers

HOUSE JOINT RESOLUTION

COMMENDING THE GEORGE W. LONG HIGH SCHOOL BOYS BASEBALL TEAM FOR OUTSTANDING ACCOMPLISHMENTS.

WHEREAS, it is with great pride and esteem that the Alabama Legislature warmly congratulates the George W. Long High School Boys Baseball Team of Skipperville, Alabama, the 1995 Alabama 1A State Champions; and

WHEREAS, the Rebels Baseball team continued the tradition of excellence by soundly defeating the Lynn Bears to secure the championship title for the second consecutive year, and the fifth time of the last seven years; and

WHEREAS, under the guidance of Head Coach Earl Miller and his able Assistant Coach Todd Horne, the G. W. Long High School Baseball Team dominated this season finishing with an impressive record of 32-9, and a team batting average of a spectacular .322; and

WHEREAS, the members of this Rebels Team deserve special recognition for their outstanding dedication and enviable "teamwork ethic," and they are: Eben Wells, Travis Crowley, Drew Miller, Kevin Dasinger, Craig Turner, Josh Abercrombie, Jeremy Armstrong, Ashley Beasley, Doug Cowart, William Judah, Fred Green, Joey Kelley, Chris Judah, Mike Snell, Nick Averitt, and Adam Pritchett; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and paramount praise to the George W. Long High School Boys Baseball Team of Skipperville, Alabama, who earned the 1995 1A Championship Title, and do furthermore direct that a copy of this resolution be provided as evidence of our pride and esteem and for appropriate presentation and school display.

Approved June 22, 1995

Time: 8:41 A.M.

Act No. 95-237 H.J.R. 254 – Reps. Clouse, Seibenhener, Baker, Carothers

HOUSE JOINT RESOLUTION

COMMENDING THE G. C. WALLACE STATE COMMUNITY COLLEGE GOLF TEAM FOR TREMENDOUS ACCOMPLISHMENTS.

WHEREAS, it is with great pride and pleasure that the Alabama Legislature honors the Wallace State Community College Golf Team for outstanding achievements throughout the 1995 season; and

WHEREAS, under the guidance of Coach Steve Otto, the Wallace Golf Team dominated this season finishing with the spectacular rank of 5th in the nation; and

WHEREAS, the members of the Wallace Golf Team continue to demonstrate those finest qualities of hard work and dedication, and this devotion has paid off, resulting in performances of the highest caliber; this is the sixth consecutive year that the Wallace College Golf Team has finished the season ranked nationally in the top 10; and

WHEREAS, the members of the Wallace Community College Golf Team deserve special recognition for their achievements, and they are: Patrick O'Brien (1st Team All-American, 4th in the Nation Individually), Steven Craig, Justin Chambers (All Region Team), Mark Monroe (All Region Team), and Anton Kotze; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and warmest congratulations to the Wallace State Community College Golf Team in recognition of their many outstanding accomplishments, and do furthermore direct that a copy of this resolution be provided as evidence of our pride and esteem and for appropriate presentation and display.

Approved June 22, 1995

Time: 8:42 A.M.

Act No. 95-238 S.J.R. 90 – Senator Sanders

SENATE JOINT RESOLUTION

COMMENDING MRS. LESSIE HUDSON OF ANNEMANIE, ALABAMA, ON THE OCCASION OF HER 100TH BIRTHDAY.

WHEREAS, it is with great personal pride and pleasure that the Alabama Legislature honors Mrs. Lessie Hudson of Annemanie, Alabama, on the occasion of her 100th birthday, June 20, 1995; and

WHEREAS, a native of Wilcox County, Alabama, Mrs. Hudson is the widow of the late Joseph Hudson, and a loving and devoted mother of seven children; and

WHEREAS, a staunch upholder, Mrs. Hudson served in her capacities as a dedicated member and active participant of Canaan

Cumberland Presbyterian Church, and is now enjoying residing with one of her beautiful daughters; and

WHEREAS, Mrs. Lessie Hudson is indeed a warm and gracious lady who deserves the utmost praise for her many notable contributions to her church and community; it is truly an honor and privilege to have the opportunity to celebrate this momentous occasion of her 100th birthday; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend warmest congratulations and highest commendation to Mrs. Lessie Hudson of Annemanie, Alabama, on the occasion of her 100th birthday, June 20, 1995, and do furthermore direct that she receive a copy of this resolution with sincerest best wishes for many more years of good health and happiness.

Approved June 22, 1995

Time: 8:45 A.M.

Act No. 95-239

H. 195 – Reps. Guin, Crigler, Hooper, Gipson, Sanderford, Townsend, Laird, Turner

AN ACT

Relating to an income taxation for corporations; to provide income tax credits under certain conditions for corporations producing coal mined in Alabama.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) For the tax years beginning on and after January 1, 1995, every corporation, whether a 'sub-chapter S' corporation, as defined by the 1995 Internal Revenue Code, or not, foreign or domestic, that is doing business in Alabama, as a producer of coal mined in Alabama, shall be allowed a credit against the tax imposed by Section 40-18-2 of the Code of Alabama 1975, in the amount of one dollar ($1) per ton of increased production of coal over the previous year's production of coal as set out herein below. Such tax credit shall be based on coal produced after January 1, 1995, provided the coal was mined in Alabama as certified by the producer of the coal. The amount of the total of credit in any one year shall be based on the number of tons of Alabama coal produced by the corporation in the year which exceeds the number of tons of Alabama coal produced by the corporation in calendar year 1994. In the event a corporation did not produce Alabama coal during calendar year 1994, such corporation must establish a base year by producing Alabama coal for twelve consecutive

months. Thereafter, such corporation shall be eligible for the tax credit as specified herein above over the base year production.

Section 2. The Department of Revenue shall promulgate and issue rules and regulations to implement and administer this act.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 23, 1995

Time: 10:30 A.M.

Act No. 95-240 S.J.R. 93 – Senators Mitchell, Dial, Lindsey, Davidson, Windom, Smith, and Clay

SENATE JOINT RESOLUTION

COMMEMORATING THE 220TH BIRTHDAY OF THE UNITED STATES ARMY.

WHEREAS, it is with utmost pride and pleasure that the Alabama Legislature commemorates the 220th birthday of the United States Army, June 14, 1995; and

WHEREAS, this momentous occasion provides us with the opportunity to reflect and remember the evolution of the United States Army, the nation's oldest and most venerable branch of the military, through the brave deeds and magnificent service of the men and women of America's Army; and

WHEREAS, since 1775, the United States Army has undertaken with bravery and courage any foreign or domestic mission brought before it, being fighting forest fires, providing relief to refugees, sheltering disaster victims, or keeping the peace, and has remained steady to its ultimate goal of protecting the American ideals of liberty and democracy; and

WHEREAS, the United States Army has furthermore remained steadfast to the challenge of it's primary mission of fighting and winning our nation's wars; America will always count on the fortitude of the United States Army; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby commemorate the 220th birthday of the United States Army, and extend paramount praise to the courageous men and women whose service is deeply appreciated.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided for the Secretary of the Army, Togo D. West, Jr., and Fred R. Jones, Civilian Aide to the Secretary of the Army of Alabama, as evidence of our sincerest pride and warmest personal regard.

Approved June 23, 1995

Time: 9:30 A.M.

Act No. 95-241 S.J.R. 97 – Senator Mitchell

SENATE JOINT RESOLUTION

COMMENDING JAMES DANIELS OF NEWTON, ALABAMA, FOR OUTSTANDING ACHIEVEMENT IN SCOUTING.

WHEREAS, it is with great pride and pleasure that the Alabama Legislature notes the attainment of Eagle Scout Rank, Boy Scouts of America, by James Daniels of Newton, Alabama; and

WHEREAS, James Daniels, who is 13 years old and a member of Troop 20, Boy Scouts of America, Ozark, Alabama, has earned 33 merit badges and is currently working on Law, American Culture, and American Heritage Badges; and

WHEREAS, James earned this coveted rank after passing the Eagle Board of Review, May 10, 1995, only 2 years and 4 months after joining the scouts; and

WHEREAS, James Daniels has indeed exemplified, through his years of participation in scouting, those admirable attributes of self-discipline, self-reliance, good citizenship, devotion to duty, and concern for his fellowman; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and warmest congratulations to Eagle Scout James Daniels of Newton, Alabama, for whom a copy of this resolution shall be provided with best wishes for every future happiness.

Approved June 23, 1995

Time: 9:31 A.M.

Act No. 95-242 S.J.R. 98 – Senator Langford

SENATE JOINT RESOLUTION

EXTENDING BEST WISHES TO MILLARD BARNETT LAWLEY ON HIS 50TH BIRTHDAY.

WHEREAS, it is indeed a great pleasure for the Alabama Legislature to recognize Mr. Millard Barnett Lawley of Pell City, Alabama, on the celebration of his 50th Birthday, August 23, 1995; and

WHEREAS, the son of Millard and Annie Lawley, Mr. Lawley attended public schools in Pell City, where he served as president of the Student Government Association his senior year, and received Honorable Mention as All-State Lineman; and

WHEREAS, Mr. Lawley married his college sweetheart, the former Spencer Deanna Nolen in Newnan, Georgia, on June 24, 1967, following his graduation from Auburn University, where he was a member of Sigma Alpha Epsilon; and

WHEREAS, Mr. Lawley, who received the distinguished honor of being selected "Oilman of the Year" (1986-1987), is a lifelong member of First Baptist Church in Pell City, and has been intensely involved in civic and community affairs over the years as a member of the Pell City Council, Pell City Jaycees, Pell City Chamber of Commerce, Rotary Club, Choccolacco Boy Scout Council, and board of directors of the Pine Harbor Country Club; as vice president and board member of the Alabama Wildlife Federation; and as founder of the local chapter of Ducks Unlimited and the St. Clair County Auburn Club; and

WHEREAS, Mr. Lawley's successful business career began with Westinghouse Corporation, and progressed into various real estate developments, and ownership of M. B. Lawley, Incorporated; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby convey our heartiest congratulations and best wishes to Mr. Millard Barnett Lawley on this 50th Birthday celebration, commend him for the happiness and unselfish giving of himself to others, and offer this resolution as an expression of our warmest personal regard.

Approved June 23, 1995

Time: 9:33 A.M.

Act No. 95-243 S.J.R. 99 – Senator Langford

SENATE JOINT RESOLUTION

HONORING THE WINSTON AND BETHLONIA JOHNSON FAMILY.

WHEREAS, it is with great pride and pleasure that the Alabama Legislature warmly congratulates the members of the Winston and Bethlonia Johnson family, who will celebrate their first family reunion on June 30-July 2, 1995; and

WHEREAS, over 100 family members traveling from 9 states representing five generations will attend this glorious celebration to be held in Montgomery, Alabama, with activities ranging from a cookout, picnic, church services, and banquet with The Honorable Judge Charles Price as the keynote speaker; and

WHEREAS, one of the most important institutions in American society is the family, and the Johnson family will use this opportunity to reflect on the countless accomplishments of past generations, and furthermore promise to strive to live up to their standards of moral conduct and expectations; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and warmest congratulations to the Winston and Bethlonia Johnson family, which is celebrating its first family reunion, June 30-July 2, 1995, in Montgomery, Alabama, and do furthermore direct that a copy of this resolution be provided with best wishes for every future happiness.

Approved June 23, 1995

Time: 9:34 A.M.

Act No. 95-244 S.J.R. 101 – Senator Bedford

SENATE JOINT RESOLUTION

CONGRATULATING DR. RICHARD CORDELL OF GUIN, ALABAMA, FOR OUTSTANDING SERVICE.

WHEREAS, it is with great pride and utmost pleasure that the Alabama Legislature honors Dr. Richard Cordell of Guin, Alabama, who is departing as head of Liberty Christian Academy following 18 years of service; and

WHEREAS, Dr. Cordell, the founder of Liberty Christian Academy, a school that provides a Christian education and has produced numerous Christian educators, will move on to assume the position of Promotional Director for the Alabama Free Will Baptist Board of Missions and Church Extension where he will promote ministries to churches and be the Alabama delegate to the national body of Free Will Baptist; and

WHEREAS, the former pastor of a multi-ministry church in Nashville, Tennessee, Dr. Cordell, who received a B.A. degree from Free Will Bible College and a divinity doctorate degree from Mid-Western Baptist College, has guided Liberty Christian Academy through five major building programs, including a new gymnasium/activities building, education building, library, and a new large restroom complex; and

WHEREAS, Dr. Cordell is the devoted husband of Marie Cordell, and they are the proud parents of four children and grandparents of 14; he is well deserving of this special recognition and will be greatly missed at Liberty Christian Academy; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend and warmly congratulate Dr. Richard Cordell of Guin, Alabama, who is departing as head of Liberty Christian Academy following 18 years of dedicated service, and do furthermore direct that a copy of this resolution be provided with best wishes for every future happiness.

Approved June 23, 1995

Time: 9:35 A.M.

Act No. 95-245 H. 31 – Rep. McKee

AN ACT

Relating to Montgomery County; providing for authority to increase the compensation of all appointed election officials for each election; to provide for additional compensation to be paid election officials designated as the chief inspector, inspector and chief clerk for each election held based upon the number of voting machines. This shall be in addition to the compensation established by Section 17-6-13 of the Code of Alabama 1975, as amended.

Be It Enacted by the Legislature of Alabama:

Section 1. The Montgomery County Commission shall have the authority to increase the compensation of all election officials appointed to hold elections in said county up to twenty dollars ($20) per day per official.

Section 2. In addition to all other compensation paid by law to election officials, those officials designated as the chief inspector, inspector and chief clerk shall henceforth receive the following supplemental amount for each election held:

Chief Inspector	$1.50 per machine
Inspector	$1.00 per machine
Chief Clerk	$ .50 per machine

Section 3. The provisions of this act are in addition to statewide compensation for election officials as specified by Section 17-6-13 of the Code of Alabama 1975, as amended.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are hereby repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 26, 1995

Time: 1:30 P.M.

Act No. 95-246 H. 103 – Rep. Smith

AN ACT

Relating to Chilton County; providing for an additional expense allowance and salary for the coroner; and providing for the expiration of the expense allowance.

Be It Enacted by the Legislature of Alabama:

Section 1. Immediately following the effective date of this act, the Coroner of Chilton County shall be entitled to an additional expense allowance in the amount of three hundred dollars ($300) per month, which shall be in addition to all other expense allowances, compensation, or salary provided by law and shall be payable from the general fund of the county.

Section 2. Beginning with the expiration of the term of the incumbent Coroner of Chilton County, the annual salary for the Coroner of Chilton County shall be increased by three hundred dollars ($300) per month, payable from the general fund of the county and at that time Section 1 shall become null and void.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 26, 1995

Time: 1:31 P.M.

Act No. 95-247 H. 119 – Rep. Flowers

AN ACT

To alter, rearrange, and extend the boundary lines and corporate limits of the City of Ozark in Dale County.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the City of Ozark in Dale County are altered, rearranged, and extended to include within the corporate limits of the city, in addition to the lands now included, all of the following territory:

EXHIBIT N

Beginning at a point on the present boundary line of the Corporate Limits of the City of Ozark, Dale County, Alabama at a point at the southwest corner of the SE1/4 of NE1/4, Sec. 26, T6N, R24E, Dale County, Alabama and running thence N 2 degrees 15'41"E 548.93 feet to a point that is 250 feet parallel to the south right-of-way of Alabama Highway No. 105; thence a chord bearing of N 62 degrees 59'39"E 702.50 feet of a line that is 250 feet parallel to the said south right-of-way; thence S 42 degrees 08'25"E 42.98 feet; thence N 57 degrees 32'13"E 135.00 feet; thence S 89 degrees 28'28"E 50.00 feet; thence N 29 degrees 52'05"E 191.04 feet to a point that is 250 feet parallel to the south right-of-way of Alabama Highway No. 105; thence a chord bearing of N 50 degrees 31'51"E 77.57 feet of a line that is 250 feet parallel to the said south right-of-way; thence N 50 degrees 31'59"E 99.91 feet; thence S 69 degrees 14'59"E 10.10 feet; thence N 2 degrees 50'28"W 10.93 feet to a point that is 250 feet parallel to the south right-of-way of Alabama Highway No. 105; thence a chord bearing of thence N 50 degrees 31'59"E 81.18 feet of a line that is 250 feet parallel to said right-of-way to its intersection with a line that is 250 feet parallel to the south right-of-way of Dale County No. 36; thence a chord bearing of S 39 degrees 07'12"E 349.39 feet of a line that is 250 feet parallel to the said south right-of-way to its intersection with the section line between Sections 25 and 26; thence S 2 degrees 35'50"W 988.98 feet along said section line to the southwest corner of S1/2 of NW1/4, Sec. 25, T6N, R24E; thence S 89 degrees 23'33"E 1729.07 feet along the south line of S1/2 of NW1/4 to a point that is 250 feet parallel to the south right-of-way of Dale County No. 36; thence a chord bearing of S 57 degrees 40'41"E 1079.02 feet to the west forty line of NE1/4 of SW1/4, Sec. 25; thence N 2 degrees 31'36"E 567.54 feet to the southeast corner of the S1/2 of NW1/4; thence N 2 degrees 58'59"E 1324.86 feet along the east line of the

S1/2 of NW1/4 to its northeast corner; thence N89 degrees 16'35"W 270.00 feet along its north line; thence N 1 degree 38'35"W 591.20 feet; thence N 89 degrees 16'35"W 200.00 feet; thence S 31 degrees 24'48"W 686.90 feet to the north line of the S1/2 of NW1/4; thence N 89 degrees 16'35"W 1371.44 feet along its north line to a point that is 250 feet parallel to the north right-of-way of Dale County No. 36; thence a chord bearing of N 39 degrees 07'12"W 433.50 feet of a line that is 250 feet parallel to said north right-of-way to its intersection with a line that is 250 feet parallel to the east right-of-way of Alabama Highway No. 105; thence a chord bearing of N 19 degrees 24'16"E 1050.80 feet of a line that is 250 feet parallel to said east right-of-way to its intersection with the south forty line of SW1/4 of SW1/4, Sec. 24, T6N, R24E; thence S 89 degrees 09'41"E 51.50 feet along said forty line; thence N 14 degrees 48'31"E 210.00 feet; thence N 89 degrees 14'56"W 53.09 feet to a point that is 250 feet parallel to the east right-of-way of Alabama Highway No. 105; thence a chord bearing of N 17 degrees 08'28"E 615.00 feet along a line that is 250 feet parallel to said east right-of-way; thence S 83 degrees 47'04"E 219.39 feet; thence N 16 degrees 34'00"E 480.00 feet; thence N 84 degrees 22'30"W 214.92 feet to a point that is 250 feet parallel to the said east right-of-way; thence a chord bearing of N 18 degrees 26'37"E 440.03 feet along a line that is 250 feet parallel to said east right-of-way; thence S 64 degrees 23'06"E 49.06 feet; thence N 28 degrees 56'19"E 409.57 feet; thence N 65 degrees 56'38"W 7.60 feet to a point that is 250 feet parallel to the said east right-of-way; thence a chord bearing of N 38 degrees 15'29"E 800.12 feet of a line that is 250 feet parallel to the said east right-of-way to its intersection with the north line of the NE1/4 of SW1/4, Sec. 24 and a point on the present corporate city limits of the City of Ozark; thence N 89 degrees 30'58"W 1642.65 feet along the said south forty line and the SW1/4 of NW1/4 to the section line of Sec. 24, T6N, R24E; thence N 89 degrees 14'59"W 1329.84 feet along south forty line of the SE1/4 of NE1/4, Sec. 23, T6N, R24E to the southwest corner of said forty; thence N 1 degree 45'25"E 2651.50 feet to the northwest corner of the NE1/4 of NE1/4, Sec. 23, T6N, R24E; thence N 88 degrees 50'46"W 662.12 feet to the southwest corner of the E1/2 of SW1/4 of SE1/4, Sec. 14, T6N, R24E; thence N 1 degree 19'20"E 1092.18 feet to a point 250 feet parallel to the south right-of-way of Johnson Road; thence a chord bearing of S 63 degrees 03'28"W 2176.43 feet of a line 250 feet parallel to said right-of-way; thence S 31 degrees 23'56"W 296.65 feet to the centerline of Morningview Drive; thence N 70 degrees 54'12"W 64.07 feet along the said centerline; thence S 16 degrees 16'11"W 147.02 feet; thence S 6 degrees 24'41"E 298.61 feet; thence S 70 degrees 39'25"W 153.01 feet; thence S 17 degrees 15'40"W 140.73 feet to the centerline of

Elwood Road; thence N 70 degrees 19'16"W 22.73 feet along said centerline; thence S 16 degrees 40'13"W 146.37 feet; thence S 36 degrees 51'38"E 116.13 feet; thence S 70 degrees 01'39"E 965.53 feet to the north forty line of the NE1/4 of NW1/4, Sec. 23, T6N, R24E; thence S 89 degrees 02'54"E 704.92 feet to the southeast corner of said forty; thence S 1 degree 52'30"W 6638.31 feet to the southwest corner of the W1/2 of NE1/4, Sec. 26, T6N R24E; thence S 89 degrees 23'33"E 1317.47 feet along the south line of said eighty to the POINT OF BEGINNING. The herein described property being the N1/2 of NE1/4 and the SE1/4, Sec. 23; the S1/2 of NW1/4, Sec. 25 and the W1/2 of NE1/4 and NE1/4 of NE1/4, Sec. 26, T6N, R24E; and lying in and being a part of the SE1/4 of SW1/4 and the SW1/4 of SE1/4, Sec. 14; the NW1/4 of NW1/4 and the NE1/4 of NW1/4, Sec. 23; the NW1/4 of SW1/4, the NE1/4 of SW1/4 and the SW1/4 of SW1/4, Sec. 24; the NW1/4 of NW1/4, the NE1/4 of NW1/4 and the NE1/4 of SW1/4, Sec. 25; and the SE1/4 of NE1/4, Sec. 26, T6N, R24E, Dale County, Alabama and containing 626 acres more or less. This description was written from a digitized tax map and does not represent an actual survey and should not be used for individual property conveyance.

EXHIBIT O

A 4.8 acre more or less tract of land and being more particularly described as follows: Commence at the intersection of the centerline of Alabama Highway No. 123 and the centerline of Post Oak Road and running thence N 31 degrees 31'29"E 240.19 feet along the centerline of Post Oak Road to the existing corporate limits and the point of beginning. Thence continue N 31 degrees 31'29"E 444.37 feet along the centerline of said road; thence S 49 degrees 37'16"E 607.50 feet; thence S 51 degrees 25'08"W 319.67 feet; thence N 36 degrees 20'28"W 193.02 feet; thence S 32 degrees 52'10"W 184.21 feet to a point on the existing corporate limits; thence N 47 degrees 15'24"W 314.37 feet along said corporate limits to the point of beginning. The herein described property lying in and being a part of the NW1/4 of NW1/4 and SW1/4 of NW1/4, Sec. 9, T6N, R24E, Dale County, Alabama. This description was written from a digitized tax map and does not represent an actual survey and should not be used for individual property conveyance.

Section 2. In accordance with Section 11-42-6(b) of the Code of Alabama 1975, a map showing what territory is proposed to be annexed to the City of Ozark is on file in the office of the Judge of Probate in Dale County, Alabama, and the map is open to the inspection of the public.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 26, 1995

Time: 1:32 P.M.

Act No. 95-248 H. 408 – Rep. Hall (A)

AN ACT

To amend Sections 1 and 3 of Act No. 93-379, H. 373 of the 1993 Regular Session (Acts 1993, p. 653), relating to Jackson County; providing further for certain county-owned or leased motor vehicles to be marked for identification purposes, and to provide further for the enforcement of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 1 and 3 of Act No. 93-379, H. 373 of the 1993 Regular Session (Acts 1993, p. 653), are amended to read as follows:

"Section 1. No later than 30 days immediately following the effective date of this act, all motor vehicles owned or leased by Jackson County shall be marked on the sides with decals or stencils identifying the vehicles as belonging to the county or being used as a county vehicle, except for the motor vehicles used for investigatory purposes by the offices of the sheriff and the district attorney. Any motor vehicles purchased or leased, after the effective date of this act shall not be assigned or issued for use until marked as provided in this act. The county identification marking shall be designed to be at least the size of the decals currently being used on the motor vehicles assigned to the county Public Works Department and shall be prominently and permanently affixed to each side of each vehicle. The words "Jackson County" and the name of the department to which the motor vehicle is assigned shall be on the decal or stencil. No vehicle shall be leased from any leasing company that prohibits the marking or stencil. The district attorney shall certify that any motor vehicle is in compliance with this act before the county commission assigns or issues the motor vehicle for use.

"Section 3. The use by any elected official or employee of Jackson County of a county-owned or leased vehicle that is not properly marked for identification as provided by this act is a violation of Section 36-25-5, Code of Alabama 1975. In addition, the expense allowance of each member of the county commission shall be suspended in the event of any violation of this act."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 26, 1995

Time: 1:33 P.M.

Act No. 95-249 H. 414 – Rep. Smith

AN ACT

Relating to Chilton County; authorizing the county commission to levy an additional one cent sales and use tax; providing for the collection, distribution, and use of the proceeds of the tax; prescribing penalties and fixing punishment for violation of this act; providing for a referendum; and providing for a termination date.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall only apply to Chilton County.

Section 2. As used in this act, state sales and use tax means the tax imposed by the state sales and use tax statutes, including, but not limited to, Sections 40-23-1, 40-23-2, 40-23-3, 40-23-4, 40-23-60, 40-23-61, 40-23-62, and 40-23-63 of the Code of Alabama 1975.

Section 3. The County Commission of Chilton County may levy, in addition to all other taxes, including, but not limited to, municipal gross receipts license taxes, a one cent privilege license tax against gross sales or gross receipts.

The gross receipts of any business and the gross proceeds of all sales which are presently exempt under the state sales and use tax statutes are exempt from the tax authorized by this act.

Section 4. The tax levied by this act shall be collected by the State Department of Revenue, the county, or by contract to a business that collects sales tax at the same time and in the same manner as state sales and use taxes are collected. On or prior to the date the tax is due, each person subject to the tax shall file with the department a report in the form prescribed by the department. The report shall set forth, with respect to all sales and business transactions that are required to be used as a measure of the tax levied, a correct statement of the gross proceeds of all the sales and gross receipts of all business transactions. The report shall also include items of information pertinent to the tax as the department may require. Any person subject to the tax levied by this act may defer reporting credit sales until after their collection, and in the event the person defers reporting them, the person shall thereafter include in each monthly report all credit collections

made during the preceding month, and shall pay the tax due at the time of filing the report. All reports filed with the department under this section shall be available for inspection by the county commission, or its designee.

Section 5. Each person engaging or continuing in a business subject to the tax levied by this act, shall add to the sales price or admission fee and collect from the purchaser or the person paying the admission fee the amount due by the taxpayer because of the sale or admission. It shall be unlawful for any person subject to the tax to fail or refuse to add to the sales price or admission fee and to collect from the purchaser or person paying the admission fee the amount required to be added to the sale or admission price. It shall be unlawful for any person subject to the tax levied by this act to refund or offer to refund all or any part of the amount collected or to absorb or advertise directly or indirectly the absorption or refund of any portion of the tax.

Section 6. The tax levied by this act shall constitute a debt due Chilton County. The tax, together with any interest and penalties, shall constitute and be secured by a lien upon the property of any person from whom the tax is due or who is required to collect the tax. The department shall collect the tax, enforce this act, and have and exercise all rights and remedies that the state or the department has for collection of the state sales and use tax. The department may employ special counsel as is necessary to enforce collection of the tax levied by this act and to enforce this act. The department shall pay the special counsel any fees it deems necessary and proper from the proceeds of the tax collected by it for Chilton County.

Section 7. All provisions of the state sales and use tax statutes with respect to the payment, assessment, and collection of the state sales and use tax, making of reports, keeping and preserving records, penalties for failure to pay the tax, promulgating rules and regulations with respect to the state sales and use tax, and the administration and enforcement of the state sales and use tax statutes which are not inconsistent with this act shall apply to the tax levied under this act. The State Commissioner of Revenue and the department shall have and exercise the same powers, duties, and obligations with respect to the tax levied under this act that are imposed on the commissioner and department by the state sales and use tax statutes. All provisions of the state sales and use tax statutes that are made applicable by this act to the tax levied under this act, and to the administration and enforcement of this act, are incorporated by reference and made a part of this act as if fully set forth herein.

Section 8. The department shall charge Chilton County for collecting the tax levied under this act in an amount or percentage of total collections as may be agreed upon by the commissioner and the Chilton County Commission. The charge shall not exceed five percent of the total amount of the tax collected in the county. The charge may be deducted each month from the gross revenues from the tax before certification of the amount of the proceeds due Chilton County for that month. The Commissioner of Revenue shall pay into the State Treasury all amounts collected under this act, as the tax is received by the department on or before the first day of each successive month. The commissioner shall certify to the State Comptroller the amount collected and paid into the State Treasury for the benefit of Chilton County during the month immediately preceding the certification. The State Comptroller shall issue a warrant each month payable to the County Treasurer of Chilton County in an amount equal to the certified amount which shall be paid into the county general fund to be used used to build a new county jail and judicial complex. The tax shall expire within one year of certification by the Chilton County Commission that the county indebtedness has been retired from the bond issuance and that the debt no longer exists. The taxes collected one year after the indebtedness has been retired shall be placed in an irrevocable trust account with the interest used to operate and maintain the new jail and judicial complex. Upon certification, the tax levied pursuant to this act shall terminate and this act and the tax shall automatically become null and void.

Section 9. This act shall be inoperative and void unless it is approved by a majority of the qualified electors of the county who vote thereon at the next general, primary, or special election in the county. The election shall be held and conducted as are elections on constitutional amendments on a date determined by the county commission. Notice of the election shall be given by the judge of probate and shall be published once a week for three successive weeks before the day of the election. On the ballots used at the election, the proposition to be voted on shall be stated substantially as follows:

"Do you favor the local law authorizing the county commission to levy a one cent sales and use tax to be used to fund the building of a new county jail and judicial complex which shall expire within one year of certification by the Chilton County Commission that the county indebtedness has been retired from the bond issuance and that the debt no longer exists and that the taxes collected one year after the indebtedness has been retired shall be placed in an irrevocable trust account with the interest used to operate and maintain the new jail and judicial complex? Yes ____ No ____."

If a majority of the votes cast at the election are affirmative votes, this act shall have full force and effect on the first day of second month following the election. If a majority of the votes cast are negative votes, this act shall have no further effect. The judge of probate shall certify the results of the election to the Secretary of State.

Section 10. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 26, 1995

Time: 1:34 P.M.

Act No. 95-250 H. 512 – Rep. Hammett

AN ACT

Relating to Covington County; authorizing the sheriff to operate a jail concession for county prisoners and state prisoners in county custody; and providing for the deposit, distribution, and auditing of monies earned.

Be It Enacted by the Legislature of Alabama:

Section 1. The Sheriff of Covington County may operate a jail concession. The sheriff, sheriff's deputies, or agents or employees of the sheriff, or any combination of these persons, may sell soft drinks, cigarettes, personal items, and other concession items to county prisoners and state prisoners in county custody. The sheriff shall be responsible for the operation of the concession.

Section 2. (a) The sheriff shall establish and maintain a concession fund in a bank licensed to do business in the state. All monies collected under this act shall be deposited by the sheriff into the concession fund.

(b) The sheriff shall keep an account of all concession sales and transactions of the concession fund for annual audit by the Department of Examiners of Public Accounts. The concession account and fund shall be audited at the same time other accounts of the sheriff are audited. The Department of Examiners of Public Accounts shall submit a copy of the audit to the sheriff within 30 days of its completion.

Section 3. All profits realized in the operation of the concession shall be expended at the discretion of the sheriff for law enforcement purposes in Covington County.

Section 4. The establishment of the concession fund and the use of the proceeds shall not diminish or take the place of any

other source of income established for the sheriff or the operation of the office.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this act are repealed.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 26, 1995

Time: 1:35 P.M.

Act No. 95-251 H. 554 – Reps. Sims, Boyd, Rogers (M)

AN ACT

To provide an additional method by which the City of Oxford in Calhoun County may extend its corporate limits in addition to any other method now provided by law.

Be It Enacted by the Legislature of Alabama:

Section 1. Whenever the council of the City of Oxford shall pass a resolution to the effect that the public health or public good requires that certain territory (described in said resolution) shall be brought within the limits of the City of Oxford: (1) It shall be the duty of the mayor to certify a copy of such resolution to the Judge of Probate of Calhoun County and said certified resolution shall have attached thereto a plat or map of the territory proposed to be annexed, which certified resolution and plat or map shall be filed by the judge of probate. (2) Within 10 days from the date of the filing of such resolution, the judge of probate must make and enter an order upon the minutes of said court, directing and ordering an election to be held by the qualified electors residing within the territory described, not less than 20 days nor more than 40 days from the date of the making of the order. The said judge shall give notice of the holding of such election by publication in a newspaper of general circulation within the City of Oxford, and if there is no newspaper of general circulation within the City of Oxford, then by posting notices at three public places in such municipality, which notice shall state the day on which such election is to be held, the voting place or places, the boundaries within which voters must reside to vote at the respective voting places, which must be within the territory proposed to be brought into the City of

Oxford, and such notice must give a description of the territory proposed to be annexed, and must state that a map of such territory is on file in the office of the Judge of Probate of said Calhoun County, open to the inspection of the public. (3) The judge of probate may designate as many places within the territory proposed to be annexed as he may deem necessary for the convenience of the voters and must designate the boundaries within which the voters must reside to vote at the respective voting places, and shall appoint three inspectors of election, two clerks and one returning officer for each voting place, which inspectors shall manage the election at the respective voting places at which they are appointed as inspectors. (4) Each qualified elector who has resided within the boundaries of the territory proposed to be brought into the City of Oxford for three months next preceding the election, may vote at such election, but must vote at the voting place designated by the judge of probate for voters in the territory in which he resides. (5) The election to determine whether or not the proposed territory shall be brought within such corporate limits must be conducted in all respects as provided by the general election laws, and under the same sanction and penalties, except as changed by the provisions hereof. (6) The inspectors at the respective voting places must, as soon as the polls are closed, ascertain and certify the results of the election, at their respective voting places, to the judge of probate, and deliver the same to the returning officer, who must at once return the same to the judge of probate, and the judge of probate must canvass the return as made by the inspectors, and if it appears that a majority of the votes cast at the election were "for annexation," the judge shall make and enter an order on the records of the probate court adjudging and decreeing the corporate limits of the City of Oxford to be extended so as to embrace the territory described in the resolution and designated on the plat or map attached to the resolution, and must cause the certified resolution and the map and all orders or decrees or judgments to be recorded in the records of his office, and from the time of the entry of such order such territory shall be a part of and within the corporate limits of the City of Oxford. If it appears that a majority of the votes cast at the election are "against annexation" the judge of probate shall make and enter an order on the records of the court adjudging and decreeing that a majority of the votes at such election were cast against coming into the corporate limits of the City of Oxford and that the territory described and designated in the resolution and plat or map attached shall not form a part of or be embraced in the City of Oxford until it may thereafter be brought into the City as a part thereof. (7) The result of such election may be contested by any qualified elector voting at the election under the same provisions as are provided for contest

of general municipal elections, making the City of Oxford the contestee. The City of Oxford shall pay all costs and expense incident to the election. (8) The plat or map filed with the certified copy of the resolution, as required herein, shall show accurately the territory proposed to be embraced within the corporate limits, including all subdivisions into lots, blocks, streets and alleys within such territory, if any, and an accurate description by metes and bounds of the boundary of such territory, which territory must be contiguous to the boundary of and form a homogeneous part of the City of Oxford, but is not to embrace any territory within the corporate limits of another municipality. Proof of residence and qualification as electors of petitioners and of persons affected shall be made to the judge of probate, by affidavit or otherwise, as he may direct. When determining the ownership of the land within such boundary, the persons, firms or corporations assessing the same for taxation shall be accepted by the judge of probate as prima facie the owners thereof. All territory brought within the corporate limits of the City of Oxford under the provisions of this act shall be subject to its laws and ordinances and the council shall have and exercise the same jurisdiction over such territory as is exercised over the other territory within the corporate limits of the City of Oxford. The council may create new wards or may enlarge the wards so as to embrace all the territory brought within the corporate limits of the City of Oxford so as to afford opportunity to all persons entitled to vote at elections in the City of Oxford to vote thereat. The judge of probate shall be entitled to the same fees for his services performed under the provisions hereof as he is authorized by law to charge and collect for similar services rendered by him, and all other officers shall be entitled to the same compensation for services rendered by them as they are authorized by law to charge and collect for similar services rendered by them, and the City of Oxford shall pay all cost and expense thereof except in the case of a contest as herein provided.

Section 2. Notwithstanding the fact that the City of Oxford may have extended its corporate limits under the provisions of this act, or any other law, it may again extend its corporate limits hereunder, or under any other law authorizing the extension of such corporate limits; provided however, that after an election has been held in any territory under the provisions of this act, or any other law, no other or subsequent election shall be ordered or held within the same territory, or any part thereof, within 12 months next after said election.

Section 3. In every proceeding to extend the corporate limits of the City of Oxford, under the provisions of this act, the Council of the City of Oxford, shall declare in each and every resolution

herein provided for, and the judge of probate shall declare in each and every order directing and ordering an election to be held hereunder, and in every order made and entered on the records of the Probate Court hereunder, that such resolution, order or notice, as the case may be, is passed, given or entered under the provisions of this act.

Section 4. All property and territory brought within the corporate limits of the City of Oxford under the provisions of this act shall be liable for payment of taxes to the City of Oxford, from and after the commencement of the city tax year, commencing next after the judge of probate shall make and enter an order on the records of the Probate Court, adjudging and decreeing the corporate limits of the City of Oxford to be extended so as to embrace such property or territory.

Section 5. This act shall constitute an additional method by which the corporate limits of the City of Oxford may be extended, and shall be in addition to any other method now or hereafter provided by law.

Section 6. This act shall take effect upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 26, 1995

Time: 1:36 P.M.

Act No. 95-252 H. 190 – Rep. Johnson (R)

AN ACT

To amend Sections 11-53A-1, 11-53A-2, 11-67-20, 11-67-21, 11-67-23, 11-67-25, and 11-67-26 of the Code of Alabama 1975, to provide that Class 6 or Class 8 municipalities may demolish unsafe buildings and structures and may provide for the abatement of weeds within the municipality.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 11-53A-1, 11-53A-2, 11-67-20, 11-67-21, 11-67-22, 11-67-23, 11-67-25, and 11-67-26 of the Code of Alabama 1975, are amended to read as follows:

"§11-53A-1.

"Pursuant to the police power granted in this article, any Class 5 or Class 6 or Class 8 municipality in the State of Alabama that elects to have this article apply to the municipality may, after notice as provided in this article, move or demolish buildings or structures, or parts of buildings or structures, party walls, or foundations when found by a municipal housing code abatement board

and by the governing body of the city, to be unsafe to the extent of creating a public nuisance from any cause."

"§11-53A-2.

"Any Class 5 or Class 6 or Class 8 municipality may have this article apply to the municipality by adopting an ordinance creating a municipal housing code abatement board and designating that each member serving on the municipal governing body shall appoint one member from his or her district to serve on the board for the term of the municipal appointing authority for two consecutive terms in office. The board shall perform the duties delegated by this article. Whenever the board finds that any building, structure, part of a building or structure, party wall, or foundation situated in its jurisdiction is unsafe to the extent that it creates a public nuisance from any cause, it shall give notice to the person or persons, firm, association, or corporation last assessed for state ad valorem taxes by personally serving a copy of the notice to remedy the unsafe or dangerous condition of the building or structure, or to demolish the building or structure, within a reasonable time set out in the notice to the person or legal entity to whom the property was assessed for ad valorem taxes, not more than 60 days following the notice. If the unsafe condition is not remedied within 60 days, the building or structure shall be demolished and removed by the city and the costs shall be assessed against the property. In the event that the personal service is returned "Not Found" after not less than two attempts, the notice may be given by registered or certified mail. The mailing of the notice by registered mail, properly addressed and postage prepaid to the address where the notice for ad valorem taxes for the last tax year was mailed, shall constitute notice as required by this article. Prior to the delivery or mailing, the notice or a copy of the notice shall also be posted at or within three feet of an entrance to the building or structure. If there is no entrance, the notice may be posted at any location upon the building or structure."

"§11-67-20.

"This article shall only apply to Alabama Class 5 and Class 6 or Class 8 municipalities."

"§11-67-21.

"All weeds growing upon the streets, sidewalks, or upon private property within Class 5 or Class 6 or Class 8 municipalities of this state, which bear seeds of a wingy or downy nature, which attain a large growth so as to become a fire menace when dry, or which are otherwise noxious or dangerous, may be declared to be a public nuisance by the governing body of any Class 5 or Class 6 or

Class 8 municipality, and thereafter abated as provided in this article."

"§11-67-22.

"Whenever any weeds are growing upon any street, sidewalk, or private property the governing body of any Class 5 or Class 6 or Class 8 municipality may, by resolution, declare the weeds to be a public nuisance and order its abatement. The resolution shall refer to the street by the name under which it is commonly known, describe the property upon which or in front of which the nuisance exists by giving a legal description of the property and no other description of the property shall be required. Any number of streets, sidewalks, or parcels of private property, may be included in one resolution."

"§11-67-23.

"After the passage of the resolution, notice of a public hearing on the matter shall be given by certified mail, return receipt requested, mailed 30 days prior to the date of the hearing and shall inform the owner of the time, date, and place of the hearing and the reason for the hearing. The notice shall be mailed to the owner of the property as the information appears on record in the Office of the Tax Assessor.

"All notices shall carry a list of names of persons or private contractors, or both, who perform the work and are registered with the city clerk. The names shall not constitute a recommendation and the failure to include a list shall in no way affect the operation of this article.

"Notice shall also be given by publication in a newspaper normally read by all segments of the population published in the county once a week for two consecutive weeks, or if no newspaper is published in the county, notice shall be given by radio or television. The first notice shall be published at least 14 days prior to the date of the scheduled hearing.

"In addition, two signs shall be conspicuously posted on the property. The wording of the signs shall not be less than one inch in height and shall be in substantially the following form:

"NOTICE TO DESTROY WEEDS

"Notice is hereby given that on the _____ day of_____, 19____ at _____ A.M./P.M. in the council chamber, the council of the City of_____ will consider a resolution regarding the weeds growing upon or in front of the property _____ Street, in the

City of _____, and more particularly described in the resolution, a copy of which is on file in the office of the city clerk; and at that time and place will determine whether the weeds constitutes a public nuisance which shall be abated by the removal of the noxious or dangerous weeds; and, if so, will order the abatement and removal of the nuisance, in which case the cost of abatement and removal shall be assessed upon the lots and lands from which or in front of which the weeds are removed, and the cost shall be added to the next regular bills for taxes levied against the respective lots and lands for municipal purposes. The amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected. The amounts shall be subject to the same commissions and fees and the same procedure for foreclosure and sale in case of delinquency as provided for ordinary municipal taxes.

"If no objections are filed with the city clerk at least five days before the meeting of the council and unless the person appears before the council in person or through his or her representative to show cause, if any, why his or her objection should be sustained, it shall be presumed that the person accepts the notice as fact and waives any rights he or she may have to contest the removal of the weeds and the action of the council shall be final unless good and sufficient cause can be otherwise shown.

"Reference is hereby made to the resolution, on file in the office of the city clerk, for further particulars.

Dated this ____ day of _____, 19 ___.

_____

Name of City

By: _____

City Clerk

"The notice shall be posted at least seven days prior to the time for hearing objections by the governing body of the municipality."

"§11-67-25.

"After the council passes the resolution finding the conditions of the property to be a nuisance and ordering its abatement, all employees and duly authorized agents of a Class 5 or Class 6 or Class 8 municipality may enter upon private property for that purpose.

The council may at its option authorize private contractors, companies, enterprises, or individuals to abate and remove the

nuisance. The council, by resolution, shall designate the contractors, companies, enterprises, or individuals who may perform the work. Those persons so designated may enter upon private property for purposes of abating or removing the nuisance. For purposes of this article compliance with the competitive bid law is not required.

"Any property owner shall have the right to have any weeds removed at his or her own expense providing the removal is done prior to the commencing of the work by the employees or agents of the municipality to do the same."

"§11-67-26.

"Each Class 5 or Class 6 or Class 8 municipality shall keep an account of the cost of abating or removing the nuisance in front of or on each separate lot or parcel of land where the work is done by it or its employees, or by a duly authorized private contractor, company, enterprise, or individual, and shall render an itemized report in writing to the governing body of the municipality showing the cost of removing the nuisance on each separate lot, or in front of the lot and before the report is submitted to the governing body, a copy of the report shall be posted for at least five days prior thereto on or near the chamber door of the governing body, together with a notice of the time when the report shall be submitted to the governing body for confirmation."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 26, 1995

Time: 1:37 P.M.

Act No. 95-253 H. 416 – Rep. Dukes

AN ACT

Relating to the City of Decatur; to authorize the city to provide each city police officer who retires in good standing with his or her badge and a pistol.

Be It Enacted by the Legislature of Alabama:

Section 1. The City of Decatur may provide each city police officer who retires in good standing with his or her badge and pistol as a part of the retirement of the police officer, which shall be in addition to any other retirement benefit provided by law.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 26, 1995

Time: 1:38 P.M.

Act No. 95-254 H. 460 – Reps. Thomas (D), Galliher

AN ACT

Relating to St. Clair County; to amend Sections 1 and 2 of Act No. 80-280, S. 459, 1980 Regular Session (Acts 1980, p. 394), to provide further for personnel in the office of the sheriff.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 1 and 2 of Act No. 80-280, S. 459, 1980 Regular Session (Acts 1980, p. 394), are amended to read as follows:

"Section 1. All laws to the contrary notwithstanding, the Sheriff of St. Clair County is authorized to employ the following personnel:

"(1) One chief deputy.

"(2) One under sheriff.

"(3) Other supervisory personnel as approved by the county commission.

"(4) Deputies as approved by the county commission.

"Section 2. All personnel in the Office of the Sheriff of St. Clair County who are employed pursuant to Section 1 of this act shall be entitled to receive any cost-of-living raises in the same manner as other employees of St. Clair County."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 26, 1995

Time: 1:39 P.M.

Act No. 95-255 S. 19 – Senator Mitchell

AN ACT

To adopt and incorporate into the Code of Alabama 1975 those general and permanent laws of the state enacted during the 1993 First Special Session, 1994 Regular Session, and 1994 First Special Session of the Legislature as contained in the 1994 Cumulative Supplement to certain volumes of the Code and in the 1994 Replacement Volumes 7A, 10, and 12 of the Code; to make corrections in certain volumes of the cumulative supplement and Replacement Volume 7A; to declare that the Code Publisher has certified it has discharged its duties regarding the replacement volumes; to expressly provide that this act does not affect any 1995 statute; and to specify the duties of the Secretary of State regarding the custody of these cumulative supplements and replacement volumes.

Be It Enacted by the Legislature of Alabama:

Section 1. Those general and permanent laws of the state enacted during the 1993 First Special Session, 1994 Regular Session, and 1994 First Special Session of the Legislature as contained in the 1994 Cumulative Supplement to Volumes 3 through 7, inclusive, 8, 9, and 11, and 12A through 22A, inclusive, and the 1994 Replacement Volumes 7A, 10, and 12 of the Code of Alabama 1975, and the additions and deletions made by the Code Commissioner for editorial purposes, as edited and published by The Michie Company as the Alabama Code Publisher, which volumes of the 1994 Cumulative Supplement and the 1994 Replacement Volumes are identified and authenticated by the Great Seal of the State of Alabama placed upon the front and back of each of the volumes of the cumulative supplement and upon the first inside page and the last inside page of the replacement volumes, are adopted and incorporated into the Code of Alabama 1975. Provided, however, the following corrections are made in certain volumes of the 1994 Cumulative Supplement and in Replacement Volume 7A:

1. Section 9-13-82, Volume 7, page 90: In subdivision (4) of subsection (a) on the first line between the language "crossties," and "per piece", delete "$0.15" and insert in lieu thereof "$0.015".

2. Section 10-2B-1.40, Volume 7A, page 54: In the first line of this section, delete "Division D of this article" and insert in lieu thereof "Act".

3. Section 12-17-20, Volume 11, page 129: In subdivision (4) of subsection (b) concerning the Sixth Judicial Circuit, delete "five circuit judges" and insert in lieu thereof "six circuit judges".

4. Section 16-5-8.1, Volume 13, page 47: On the fourth line after the language "level course grades", insert "earned".

5. Section 16-22-11 , Volume 13, page 78: In subdivision (1) of subsection (a) on the sixth line of the subdivision, the fourth line on page 78, delete "1994-94" and insert in lieu thereof "1994-95".

6. Section 22-11A-62, Volume 14, page 88: On the fifth line of the section, delete "Section 22-7A-4" and insert in lieu thereof "Section 22-11A-63".

7. Section 22-35-5, Volume 14, page 149: In subsection (b) on the second line, delete "change" and insert in lieu thereof "charge".

8. Section 38-7-2, Volume 20, page 27: In subdivision (2) after "(2)", delete the language "FACILITY FOR CHILD CARE or CHILD-CARE FACILITY." and insert in lieu thereof "CHILD-CARE INSTITUTION or INSTITUTION FOR CHILD CARE".

9. Section 40-18-15, Volume 21, page 37: In subdivision (13) of subsection (a) after the language "as determined in accordance with 26 U.S.C. § 213", insert "; provided, however, that the limitation of the deduction to the excess of such expenses over 7.5 percent of adjusted gross income as provided in said 26 U.S.C. § 213".

10. Section 43-2-851, Volume 22A, page 27: In subsection (a) in the second sentence, delete "Section 43-2-843" and insert in lieu thereof "Section 43-2-844".

11. Delete the language "[*]" in each Code section where this language was added by the Code Commissioner. Delete the brackets which enclosed language added by the Code Commissioner. The language within the brackets shall be retained.

Section 2. It is declared that The Michie Company, as the Alabama Code Publisher, has certified that it has discharged its duties and responsibilities to edit and publish 1994 Replacement Volumes 7A, 10, and 12 of the Code of Alabama 1975 by combining the material in the previous bound volumes with the material contained in the cumulative supplements without making substantive changes, but making nonsubstantive changes and corrections as may have resulted from changes in reference numbers, changes of names and titles of governmental departments, agencies, and officers, typographical errors, grammatical changes, and misspellings.

Section 3. The adoption of this act shall not repeal, supersede, amend, or in any other way affect any statute enacted into law during any 1995 session of the Legislature.

Section 4. Upon passage and approval of this act, the duly authenticated volumes of the 1994 Cumulative Supplement and the duly authenticated 1994 Replacement Volumes shall be

transmitted to the Secretary of State, who shall file the volumes of the supplement and the replacement volumes in that office. The volumes of the supplement and the replacement volumes shall not be removed from the office of the Secretary of State, but the Secretary of State, upon request, under proper certificate and seal of that office, shall certify any part or parts thereof upon payment of the fee specified by law for similar services.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 26, 1995

Time: 1:40 P.M.

Act No. 95-256 S. 215 – Senator Langford

AN ACT

To amend Section 31-2-13, Code of Alabama 1975, to provide further for military service benefits for officers and employees of governmental entities.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 31-2-13, Code of Alabama 1975, is amended to read as follows:

"§31-2-13.

"(a) Military leave of absence. — All officers and employees of the state of Alabama, or of any county, municipality, or other agency or political subdivision thereof, or officers or employees of any public or private business or industry who are active members of the Alabama national guard, naval militia, the Alabama state guard organized in lieu of the national guard, or of any other reserve component of the armed forces of the United States, shall be entitled to military leave of absence from their respective civil duties and occupations on all days that they are engaged in field or coast defense or other training or on other service ordered under the National Defense Act, or of the federal laws governing the United States reserves, without loss of pay, time, efficiency rating, annual vacation, or sick leave. Notwithstanding the foregoing, no person granted a leave of absence with pay shall be paid for more than 168 working hours per calendar year, and those persons shall be entitled, in addition thereto, to be paid for no more than 168 working hours at any one time while called by the governor to duty in the active service of the state. This section shall apply to all schools and institutions of learning supported by state funds.

"(b) Credit for active federal service. — Service in the national guard or naval militia of Alabama, when called, drafted, or ordered into the service of the United States, shall be considered as equivalent service in the Alabama national guard or naval militia for any and all state purposes regarding privileges, honors, pay, allowances, and exemptions provided by law for members of the national guard and naval militia of Alabama."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 26, 1995

Time: 1:41 P.M.

Act No. 95-257 S. 225 – Senator Windom

AN ACT

To amend Sections 5-21-2, 5-21-3, 5-21-4, 5-21-5, 5-21-7, 5-21-9, and 5-21-11 of the Code of Alabama 1975, to provide further for the plan for linked deposits administered by the Office of the State Treasurer.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 5-21-2, 5-21-3, 5-21-4, 5-21-5, 5-21-7, 5-21-9, and 5-21-11 of the Code of Alabama 1975, are amended to read as follows:

"§5-21-2.

"The legislative purpose and intent of this chapter is to create a plan for emergency interim deposits as herein defined and for linked deposits in this state in which the State Treasurer is authorized to deposit or invest a portion of the state's portfolio of investments with participating lending institutions in relatively low-yielding deposit accounts, certificates of deposit, or other authorized investments, where the institutions have made commitments to make available lower cost loans on the basis of these linked deposits for qualifying private farm and small business borrowers. The further legislative intent is that the lower cost loans will result in a significant contribution to the economic and agricultural growth and development of the state, and will assist in maintaining or improving business and agricultural profitability as well as preserving and creating jobs for Alabama citizens."

"§5-21-3.

"For purposes of this chapter, the following terms shall have the meaning hereinafter ascribed to them, unless the context clearly indicates otherwise:

"(1) PLAN. The Wallace Plan for Linked Deposits, created in Section 5-21-4.

"(2) TREASURER. The Treasurer for the State of Alabama.

"(3) LENDING INSTITUTION or ELIGIBLE LENDING INSTITUTION or LENDER. All state banks, savings and loan associations, and any other lending institutions of this state which are or shall become a depository of state funds, which agree to participate in a linked deposit plan.

"(4) LINKED DEPOSIT or LINKED DEPOSIT PLAN. An agreement between the treasurer and an eligible lending institution whereby a deposit is placed with the institution at a rate of return which is up to two percent below the current market rate for such a deposit, as determined by the treasurer, provided the institution agrees to lend the equivalent value of the deposit to eligible agricultural and business operations at a correspondingly reduced rate of interest, as hereinafter provided.

"(5) ELIGIBLE AGRICULTURAL OPERATION. Any person, corporation, partnership, or other entity which is engaged in the production of agricultural, livestock, poultry, timber, dairy, or fruit or other horticultural products and which:

"a. Derives at least 70 percent of its gross income from such production; and

"b. Operates exclusively in Alabama.

"(6) ELIGIBLE BUSINESS OPERATION. Any person, proprietor, corporation, partnership, or other entity which:

"a. Is headquartered in Alabama;

"b. Is organized for profit;

"c. Maintains facilities exclusively in Alabama;

"d. Has no more than 150 employees at the time it applies for a loan under the plan;

"e. For loans of $250,000 or less, demonstrates to the lending institution that for every $15,000 loaned at least one job is sustained or created as a result of the loan; and

"f. For loans of from $250,000 to $500,000, demonstrates to the lending institution that for each $10,000 worth of loan proceeds approved, at least one new job is created within the state.

"(7) EMERGENCY INTERIM DEPOSITS. Deposits discretionarily made by the treasurer in support of loans made by eligible lending institutions to persons, businesses, organizations, or

local governments which have suffered loss, and which are located in areas in which property loss has occurred due to fire, flood, tornado, hurricane, or other act of God, or other natural or man-made disaster.

"§5-21-4.

"(a) The Wallace Plan for Linked and Emergency Interim Deposits, hereinafter referred to as "the plan" is created. The State Treasurer is authorized, effective October 1, 1995, and until September 30, 1999, to use up to 12 percent of the total amount of investment funds of the state portfolio for the plan as linked deposits for eligible loans or for emergency interim deposits, as herein defined, made at the treasurer's discretion.

"(b) The term of any emergency interim deposit shall not exceed one year, and the deposit shall be made at a rate of return which is up to two percent below the current market rate for such a deposit, as determined by the treasurer, provided the institution agrees to lend the equivalent value of the deposit at a correspondingly reduced rate of interest."

"§5-21-5.

"(a) Pursuant to the plan, agricultural operations loans would be limited to a maximum amount of $100,000.00; however, the treasurer is authorized to provide for a lower maximum amount. Such loans shall be limited to a term of one year or less and the linked deposit on which any such loan is based shall have the same maturity date as the loan. In addition, an agricultural operation must qualify as an eligible agricultural operation, as defined in section 5-21-3 hereof, in order to qualify for such a loan. An eligible agricultural operation may receive one or more annual linked deposit loans for a total of up to four years.

"(b) Pursuant to the plan, business operations loans shall have a maximum amount of $500,000. The linked deposit upon which any business operations loan is based shall not be for a term longer than two years. In the event that the lending institution and the borrower agree to a longer term for the loan, then the interest rate charged to the borrower for the term of the loan beyond the initial two-year period shall be agreed to by the lending institution and the borrower without restriction by this chapter. The proceeds of any such business loan may be used for either working capital or fixed asset financing.

"(c) In addition to the requirements of this section and to those requirements of section 5-21-3(6), an eligible business operations loan borrower must demonstrate to the lender that an overall expected benefit of the loan is the creation or sustaining of at least

one job for every $15,000.00 of loan proceeds for loans up to $250,000.00. It is further provided, however, that the treasurer may waive the requirements of this subsection with the written approval of the lending institution."

"§5-21-7.

"The treasurer shall determine the rate, term, method, and date of payment of interest on each linked deposit. Generally, the treasurer shall price the deposit based upon similar alternative financing options for like-term investments, reduced by up to two percentage points, in arriving at the linked deposit rate of interest in his agreement with any lending institution. For loans with a maturity date of two years or longer, the treasurer shall base the interest rate of the linked deposit primarily upon two year United States treasury notes rate of return. However, the treasurer shall consider all other financial factors in arriving at a rate of interest on the linked deposit. The lending institutions shall make all credit and loan decisions, based on the criteria defined in this chapter. Loans made by lending institutions pursuant to the plan shall be made at a rate of interest which shall reflect a percentage point reduction equal to the percentage point reduction for the linked deposit rate of interest."

"§5-21-9.

"The treasurer shall establish procedures and other requirements for participation in the plan, and shall provide simplified rules and loan application forms to the participating lending institutions for linked deposit loans. The forms shall reflect the specific requests for information required by this chapter for eligible agricultural and business loans, respectively. Upon completion of any application for a loan pursuant to the plan, the lender shall send the application to the treasurer who shall either approve or reject the application in a timely manner. If approved, the treasurer shall deposit funds with the lender in accordance with the established procedures, and the deposits shall be secured in accordance with Section 41-14-35.

"§5-21-11.

"The provisions of this chapter shall become effective April 7, 1988; and shall terminate September 30, 1999, unless specifically continued by an act of the legislature."

Section 2. This act shall become effective on October 1, 1995, immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 26, 1995

Time: 1:42 P.M.

Act No. 95-258 S. 488 – Senator Hale

AN ACT

Relating to the City of Cullman; to amend Section 3 of Act No. 93-536, S. 560 of the 1993 Regular Session (Acts 1993, p. 882), to further provide for the election of the Cullman City Board of Education.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 3 of Act No. 93-536, S. 560 of the 1993 Regular Session (Acts 1993, p. 882) is amended to read as follows:

"Section 3. (a) The initial election for the city school board members shall be held in conjunction with the first Cullman City Council election held after the ratification of an amendment to the Constitution of Alabama of 1901, authorizing the election of the Cullman City Board of Education. The last two Cullman City Board of Education members appointed before the effective date of this act shall continue to hold office and shall represent Places Four and Five. At the initial election, the members representing Places One, Two, and Three shall be elected for four-year terms; two years after the first election, the members representing Places Four and Five shall be elected for four-year terms. After initial terms, all members shall be elected for four-year terms. Subsequent school board elections shall be called by the city in conformity with the applicable state laws for the elections. Board members shall serve from the date on which they are sworn into office until the swearing in of their successors following the next regularly scheduled school board elections. Terms of office for the initially elected board members shall commence at noon on the first day of the month following their election. At its initial meeting, to be held within 15 days after the election is certified, the board shall elect a chair from its membership by majority vote. Thereafter, every two years immediately following the swearing in of elected board members, the board shall elect its chair.

"(b) The Cullman City Council may, by written resolution, enact all or any of the following provisions for a special election for the Cullman City Board of Education:

"(1) Call a special election for the Cullman City Board of Education at any time more than 90 days after the effective date of this act.

"(2) Call for the election of all five members of the Cullman City Board of Education.

"(3) In the event the Cullman City Council calls for a special election for the Cullman City Board of Education prior to the 1996

city elections, any board members elected shall serve from the date they are sworn into office until the swearing in of their successors after the city election in the year 2000. Any member elected in the city election of the year 2000 or thereafter shall be elected for four-year terms.

"(4) In the event the Cullman City Council calls for a special election under this act, the City of Cullman shall pay all costs associated with the election.

"If no special election is held under this act, the election for the Cullman City Board of Education shall be held in conjunction with the 1996 city elections pursuant to Act No. 93-536, S.560 of the 1993 Regular Session (Acts 1993, p. 882)."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved June 26, 1995

Time: 1:43 P.M.

Act No. 95-259 S. 517 – Senator Escott-Russell

AN ACT

To establish the Osteoporosis Prevention and Treatment Education Program within the State Department of Health and to provide financing for the program.

Be It Enacted by the Legislature of Alabama:

Section 1. This act may be cited as the "Osteoporosis Prevention and Treatment Education Act of 1995."

Section 2. (a) The Legislature finds all of the following:

(1) Osteoporosis, a bone-thinning disease, is a major public health problem that poses a threat to the health and quality of life to as many as 25 million Americans.

(2) The 1.5 million fractures each year that result from osteoporosis cause pain, disability, immobility and social isolation, affecting quality of life and threatening the ability of people to live independently.

(3) Because osteoporosis progresses silently and without sensation over many years, and many cases remain undiagnosed, the first symptom of the disease is often a fracture, typically of the hip, spine, or wrist.

(4) One of two women and one of five men will suffer an osteoporotic fracture in their lifetime.

(5) A woman's risk of hip fracture is equal to her combined risk of breast, uterine, and ovarian cancer.

(6) The annual direct and indirect costs of osteoporosis to the health care system are estimated to be as high as eighteen billion dollars ($18,000,000,000) in 1993, and are expected to rise above sixty billion dollars ($60,000,000,000) by the year 2020.

(7) Since osteoporosis progresses silently and currently has no cure, prevention, early diagnosis, and treatment are keys to reducing the prevalence of and devastation from this disease.

(8) Although there exists a large quantity of public information about osteoporosis, it remains inadequately disseminated and not tailored to meet the needs of specific population groups.

(9) Most people, including physicians, health care providers, and government agencies, continue to lack knowledge in the prevention, detection, and treatment of the disease.

(10) Experts in the field of osteoporosis believe that with greater awareness of the value of prevention among medical experts, service providers, and the public, osteoporosis will be preventable and treatable in the future, thereby reducing the costs of long-term care.

(11) Osteoporosis is a multi-generational issue because building strong bones during youth and preserving them during adulthood may prevent fractures in later life.

(12) Educating the public and health care community throughout the state about this potentially devastating disease is of paramount importance and is in every respect in the public interest and to the benefit of all residents of the state.

Section 3. The purposes of this act are as follows:

(1) To create and foster a multi-generational, statewide program to promote public awareness and knowledge about the causes of osteoporosis, personal risk factors, the value of prevention and early detection, and the options available for treatment.

(2) To facilitate and enhance knowledge and understanding of osteoporosis by disseminating educational materials, information about research results, services, and strategies for prevention and treatment to patients, health professionals, and the public.

(3) To utilize educational and training resources and services that have been developed by organizations with appropriate

expertise and knowledge of osteoporosis and to use available technical assistance.

(4) To evaluate existing osteoporosis services in the community and assess the need for improving the quality and accessibility of community-based services.

(5) To provide easy access to clear, complete, and accurate osteoporosis information and referral services.

(6) To educate and train service providers, health professionals, and physicians.

(7) To heighten awareness about the prevention, detection, and treatment of osteoporosis among state and local health and human service officials, health educators, and policy makers.

(8) To coordinate state programs and services to address the issue of osteoporosis.

(9) To promote the development of support groups for osteoporosis patients and their families and caregivers.

(10) To adequately fund these programs.

(11) To provide lasting improvements in the delivery of osteoporosis health care, thus providing patients with an improved quality of life and society with the containment of health care costs.

Section 4. (a) The State Department of Health, hereinafter referred to as "the department," shall establish, promote, and maintain an osteoporosis prevention and treatment education program in order to raise public awareness, educate consumers, educate and train health professionals, teachers, and human service providers, and for other purposes.

(b) For purposes of administering this act, the State Health Officer shall do all of the following:

(1) Provide sufficient staff to implement the Osteoporosis Prevention and Treatment Education Program.

(2) Provide appropriate training for staff of the Osteoporosis Prevention and Treatment Education Program.

(3) Identify the appropriate entities to carry out the program.

(4) Base the program on the most up-to-date scientific information and findings.

(5) Work to improve the capacity of community-based services available to osteoporosis patients.

(6) Work with governmental offices, community and business leaders, community organizations, health care and human service providers, and national osteoporosis organizations to coordinate efforts and maximize state resources in the areas of prevention, education, and treatment of osteoporosis.

(7) Identify, and when appropriate, replicate or use successful osteoporosis programs and procure related materials and services from organizations with appropriate expertise and knowledge of osteoporosis.

(c) The department shall use, but is not limited to, the following strategies for raising public awareness on the causes and nature of osteoporosis, personal risk factors, value of prevention and early detection, and options for diagnosing and treating the disease:

(1) An outreach campaign utilizing print, radio, and television public service announcements, advertisements, posters, and other materials.

(2) Community forums.

(3) Health information and risk factor assessment at public events.

(4) Targeting at-risk populations.

(5) Providing reliable information to policy makers.

(6) Distributing information through county health departments, schools, area agencies on aging, employer wellness programs, physicians, hospitals and health maintenance organizations, women's groups, non profit organizations, community-based organizations, and departmental regional offices.

(d) The department shall use, but is not limited to, the following strategies for educating consumers about risk factors, diet, and exercise, diagnostic procedures and their indications for use, risks, and benefits of drug therapies currently approved by the U.S. Food and Drug Administration, environmental safety and injury prevention, and the availability of diagnostic, treatment, and rehabilitation services:

(1) Identify and obtain educational materials including brochures and videotapes which translate accurately the latest scientific information on osteoporosis in easy-to-understand terms.

(2) Build a statewide capacity to provide information and referral on all aspects of osteoporosis, including educational materials and counseling.

(3) Establish state linkage with an existing toll-free hotline for consumers.

(4) Facilitate the development and maintenance of osteoporosis support groups.

(5) Conduct workshops and seminars for lay audiences.

(e) The department shall use, but is not limited to, the following strategies for educating physicians and health professionals and training community service providers on the most up-to-date, accurate scientific and medical information on osteoporosis prevention, diagnosis, and treatment, therapeutic decision-making, including guidelines for detecting and treating the disease in special populations, risks and benefits of medications, and research advances:

(1) Identify and obtain education materials for the professional which translates the latest scientific and medical information into clinical applications.

(2) Raise awareness among physicians and health and human services professionals as to the importance of osteoporosis prevention, early detection, treatment, and rehabilitation.

(3) Identify and use available curricula for training health and human service providers and community leaders on osteoporosis prevention, detection, and treatment.

(4) Provide workshops and seminars for in-depth professional development in the field of the care and management of the patient with osteoporosis.

(5) Conduct a statewide conference on osteoporosis at appropriate intervals.

Section 5. (a) The department shall conduct a needs assessment to identify any or all of the following:

(1) Research being conducted within the state.

(2) Available technical assistance and educational materials and programs nationwide.

(3) The level of public and professional awareness about osteoporosis.

(4) The needs of osteoporosis patients, their families, and caregivers.

(5) Needs of health care providers, including physicians, nurses, managed care organizations, and other health care providers.

(6) The services available to the osteoporosis patient.

(7) Existence of osteoporosis treatment programs.

(8) Existence of osteoporosis support groups.

(9) Existence of rehabilitation services.

(10) The number and location of bone density testing equipment.

(b) Based on the needs assessment, the department shall develop and maintain a list of osteoporosis-related services and osteoporosis health care providers with specialization in services to prevent, diagnose, and treat osteoporosis. The list shall be disseminated with a description of diagnostic testing procedures, appropriate indications for their use, drug therapies currently approved by the United States Food and Drug Administration, and a cautionary statement about the current status of osteoporosis research, prevention, and treatment. Such a statement shall also indicate that the department does not license, certify, or in any way approve osteoporosis programs or centers in the state.

Section 6. (a) The department shall establish an Interagency Council on Osteoporosis. The State Health Officer, or his or her designee, shall chair the interagency council. The council shall have representatives from appropriate state departments and agencies, including, but not limited to, the entities with responsibility for aging, health care reform implementation, education, public welfare, and programs for women.

(b) The council shall be responsible for all of the following:

(1) Coordinate osteoporosis programs conducted by or through the department.

(2) Establish a mechanism for sharing information on osteoporosis among all officials and employees involved in carrying out osteoporosis-related programs.

(3) Review and coordinate the most promising areas of education, prevention, and treatment concerning osteoporosis.

(4) Assist the department and other offices in developing and coordinating plans for education and health promotion on osteoporosis.

(5) Establish mechanisms to use the results of research concerning osteoporosis in the development of relevant policies and programs.

(6) Prepare a report that describes educational initiatives on osteoporosis sponsored by the state and makes recommendations for

new educational initiatives on osteoporosis, and transmit the report to the Legislature and make the report available to the public.

Section 7. The Interagency Council on Osteoporosis shall establish and coordinate an Advisory Panel on Osteoporosis which shall provide non-governmental input regarding the Osteoporosis Prevention and Treatment Education Program. The membership of the panel shall include, but is not limited to, persons with osteoporosis, women's health organizations, public health educators, osteoporosis experts, providers of osteoporosis health care, persons knowledgeable in health promotion and education, and representatives of national osteoporosis organizations or their state or regional affiliates.

Section 8. (a) The department may replicate and use successful osteoporosis programs and enter into contracts and purchase materials or services, or both, from organizations with appropriate expertise and knowledge of osteoporosis for services and materials with may include any of the following:

(1) Educational information and materials on the causes, prevention, detection, treatment, and management of osteoporosis.

(2) Training of staff.

(3) Physician and health care professional education and training, and clinical conferences.

(4) Conference organization and staffing.

(5) Regional office development and staffing.

(6) Nominations for advisory panels.

(7) Support group development.

(8) Consultation.

(9) Resource library facilities.

(10) Training home health aides and nursing home personnel.

(11) Training teachers.

(b) The department may enter into an agreement to work with a national organization with expertise in osteoporosis to establish and staff offices of the organization in the state to implement parts of the osteoporosis program.

Section 9. (a) The State Health Officer may accept grants, services, and property from the federal government, foundations, organizations, medical schools, and other entities as may be available for the purposes of fulfilling the obligations of this program.

(b) The State Health Officer shall seek any federal waiver or waivers that may be necessary to maximize funds from the federal government to implement this program.

Section 10. The provisions of this act shall be implemented only to the extent sufficient funds are made available for implementation and administration.

Section 11. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 26, 1995

Time: 1:44 P.M.

Act No. 95-260 S. 368 – Senator Freeman

AN ACT

To amend Section 32-7-5 and Section 32-7-6 of the Code of Alabama 1975, the Motor Vehicle Safety Responsibility Act; to increase the time allowed for the operator or owner of a motor vehicle to file the required forms after a motor vehicle accident and to provide that reinstatement fees will not be assessed on suspension if proper documentation is provided that acceptable insurance was in effect at the time of the motor vehicle accident.

Be It Enacted by the Legislature of Alabama:

Section 1. The intent of this act is to increase the length of time for a person who has a motor vehicle accident to file an accident report required by the Motor Vehicle Safety Responsibility Act. It is the further intent of this act to allow a person who has proper documentation, security, or insurance to cover the accident, but who fails to timely file the report and has his or her driving privilege suspended, to have the driving privilege reinstated without charge.

Section 2. Section 32-7-5, Code of Alabama 1975, is hereby amended to read as follows:

"§32-7-5.

"The operator of every motor vehicle which is in any manner involved in an accident within this state, in which any person is killed or injured or in which damage to the property of any one person, including himself or herself, in excess of two hundred fifty dollars ($250) is sustained, shall within 30 days after the accident report the matter in writing to the director. The report, the form of which shall be prescribed by the director, shall contain only the information necessary to enable the director to determine whether

the requirements for the deposit of security under section 32-7-6 are inapplicable by reason of the existence of insurance or other exceptions specified in this chapter. The director may rely upon the accuracy of the information unless and until there is reason to believe that the information is erroneous. If the operator is physically incapable of making the report, the owner of the motor vehicle involved in the accident shall, within 10 days after learning of the accident, make the report. The operator or the owner shall furnish additional relevant information as the director shall require."

Section 3. Section 32-7-6, Code of Alabama 1975, is amended to read as follows:

"§32-7-6.

"(a) If 20 days after the receipt of a report of a motor vehicle accident within this state which has resulted in bodily injury or death, or damage to the property of any one person in excess of two hundred fifty dollars ($250), the director does not have on file evidence satisfactory that the person who would otherwise be required to file security under subsection (b) of this section has been released from liability, or has been finally adjudicated not to be liable, or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident, the director shall determine the amount of security which shall be sufficient in his or her judgment to satisfy any judgment or judgments for damages resulting from the accident as may be recovered against each operator or owner.

"(b) The director shall, within 60 days after the receipt of the report of a motor vehicle accident, suspend the license of each operator and all registrations of each owner of a motor vehicle in any manner involved in the accident, and if the operator is a nonresident the privilege of operating a motor vehicle within this state, and if the owner is a nonresident the privilege of the use within this state of any motor vehicle personally owned, unless the operator or owner or both shall deposit security in the sum so determined by the director. Notice of the suspension shall be sent by the director to the operator and owner, not less than 10 days prior to the effective date of the suspension, and shall state the amount required as security. Where erroneous information is given the director with respect to the matters set forth in subdivisions (1), (2), or (3) of subsection (c) of this section, he or she shall take appropriate action as provided within 60 days after receipt by the director of correct information with respect to these matters. Upon applying for reinstatement for suspension imposed under this section, no reinstatement fees shall be assessed if proper

documentation is provided to the director that acceptable insurance was in effect at the time of the motor vehicle accident.

"(c) This section shall not apply under the conditions stated in section 32-7-7 nor in any one of the following if:

"(1) The operator or owner if the owner had in effect at the time of the accident an automobile liability policy with respect to the motor vehicle involved in the accident.

"(2) The operator, if not the owner of the motor vehicle, if there was in effect at the time of the accident an automobile liability policy or bond with respect to the operation of motor vehicles not owned by him or her.

"(3) The operator or owner if the liability of the operator or owner for damages resulting from the accident is, in the judgment of the director, covered by any other form of liability insurance policy or bond.

"(4) Any person qualifying as a self-insurer under section 32-7-34, or to any person operating a motor vehicle for the self-insurer.

"No policy or bond shall be effective under this section unless issued by an insurance company or surety company authorized to do business in this state unless the motor vehicle was not registered in this state, or was a motor vehicle which was registered elsewhere than in this state at the effective date of the policy or bond, or the most recent renewal thereof. The policy or bond shall not be effective under this section unless the insurance company or surety company, if not authorized to do business in this state, shall execute a power of attorney authorizing the director to accept service on its behalf of notice or process in any action upon the policy or bond arising out of the accident provided, that every policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than twenty thousand dollars ($20,000) because of bodily injury to or death to one person in any one accident and subject to the limit for one person, to a limit of not less than forty thousand dollars ($40,000) because of bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, to a limit of not less than ten thousand dollars ($10,000) because of injury to or destruction of property of others in any one accident."

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 26, 1995

Time: 1:45 P.M.

Act No. 95-261

H. 469 – Reps. McKee, Carns, Hooper, Sanderford, Townsend, Seibenhener, Dean, Penry, McMillan, Wren, Moore, Jorgensen, Maull, Baker, Dolbare, Collins, Pringle, Gipson, Guin, Morton

AN ACT

To amend Sections 28-2-23 and 28-3-190, Code of Alabama 1975, to make technical corrections to the Malt Beverage Tax distribution and Local Beer Tax distribution, such that references to minimum program shall be changed to foundation program along with other necessary technical corrections which will facilitate the implementation of the K-12 Foundation Program.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 28-2-23, Code of Alabama 1975, is hereby amended to read as follows:

"§28-2-23

"Any county or municipality which allows the sale of malt beverages under the provisions of this article shall be authorized to levy and collect a tax upon the sale of such beverages in an amount not to exceed $.05 on each 12 fluid ounces or fraction thereof; provided, that the county shall not have authority to impose such tax within any incorporated municipality within such county.

A minimum of 60 percent of the proceeds of such tax shall be used solely for the purpose of public education, with the remainder to be allocated by the county commission or municipal governing body levying and collecting the tax for any other public use. The county commission shall distribute the proceeds of this tax for public education to school systems within the county on the same basis as the total calculated costs of the foundation program for the local boards of education within the county.

Section 2. Section 28-3-190, Code of Alabama 1975, is hereby amended to read as follows:

"§28-3-190.

"(a) Levy. — In addition to the excise tax levied by article 5A of chapter 3 of this title and the licenses provided for by chapter 3A of this title and by section 28-3-194, and any acts amendatory thereof, supplementary thereto or substituted therefor, and municipal and county licenses, there is hereby levied a privilege or excise tax on every person licensed under the provisions of said chapter

3A who sells, stores, or receives for the purpose of distribution, to any person, firm, corporation, club or association within the state of Alabama any beer. The tax levied hereby shall be measured by and graduated in accordance with the volume of sales by such person of beer, and shall be an amount equal to one and six hundred twenty-five thousands cents (1.625 cents) for each four fluid ounces or fractional part thereof.

"(b) Collection. — The tax levied by subsection (a) of this section shall be added to the sales price of all beer sold, and shall be collected from the purchasers. It shall be unlawful for any person who is required to pay the tax in the first instance to fail or refuse to add to the sales price and collect from the purchaser the required amount of tax, it being the intent and purpose of this provision that the tax levied is in fact a tax on the consumer, with the person, firm, corporation, club or association who pays the tax in the first instance acting merely as an agent of the county or municipality for the collection and payment of the tax.

"The tax levied by subsection (a) of this section shall be collected by a return in the form as prescribed or approved by the collection authority of the county or municipality, which shall be filed by the wholesaler with the wet county and wet municipality where sold postmarked not later than the 15th day of the month following the month during which the beer is sold, which return shall be accompanied by the remittance of the tax due; provided, where the taxes are timely paid, the tax due shall be discounted by two and one-half percent, which discount shall, subject to the provisions of section 28-3-195, be retained by said wholesaler for collecting the tax.

"The county and municipality each shall have the authority to inspect, examine and audit the books and records of any person, firm, corporation, club or association who sells, stores, or receives for the purpose of distribution, any beer, to determine the accuracy of any return required to be filed with it.

"The county shall have the authority to require any beer wholesaler not having a place of business within that county, who makes any sale, distribution or delivery of beer within the county to first obtain a permit from the beer tax collection authority of the county collecting the tax levied by this article.

"The county and municipality shall have the authority to require any wholesale beer licensee, who sells, distributes or delivers beer within the county, to file with the tax collection authority a bond in the penal sum not to exceed twice the amount of the average monthly tax due by the licensee to such authority estimated by such tax collection authority, conditioned upon the

payment of the tax on beer levied by this article to become due by the licensee.

"(c) Disposition of proceeds. — The proceeds of the tax levied by subsection (a) of this section shall be paid and distributed as follows:

"(1) Except as hereinafter provided in subdivision (2) or (3) of this subsection (c), one and six hundred twenty-five thousandths cents (1.625 cents) per four fluid ounces or fractional part thereof shall be paid by wholesale licensees on their sales either into the treasury of the wet municipality in which the beer was sold or delivered by a wholesaler to a retailer within its corporate limits, or, where sold outside the corporate limits of any municipality, into the treasury of the wet county in which the beer was sold or delivered by the wholesaler to a retailer.

"(2) Provided, however, such tax shall otherwise be paid and disposed of in the following counties, as hereinafter set forth:

"a. Autauga county: The entire amount of the tax collected on sales outside of the area comprised by the corporate limits and police jurisdictions of the cities of Prattville and Autaugaville shall be paid to the Autauga county commission. Outside the corporate limits but within the police jurisdictions of said municipalities, two-thirds of the amount of the tax shall be paid to the county commission and one-third shall be paid to the respective municipality. Within the actual corporate limits of Autaugaville and Prattville, two-thirds of the tax shall be paid to the governing body of the respective municipality and one-third shall be paid to the county commission.

"b. Baldwin county: The taxes shall be paid as follows:

"1. All the taxes collected on sales within the corporate limits of any municipality shall be paid to said municipality.

"2. One-half the taxes collected on sales within the police jurisdiction of any municipality shall be paid to said municipality and the remaining one-half shall be paid to the county.

"3. All of the taxes on sales outside the corporate limits of any municipality and outside of any police jurisdiction shall be paid to the local board of education with the funds to be used for capital outlay, maintenance of existing buildings and instructional materials.

"c. Calhoun county: The entire amount of the tax shall be collected by the Calhoun county probate judge and paid to the Calhoun county commission. All such taxes, after first reimbursing

the county general fund for expenses incurred in administration and enforcement of the tax, shall be distributed as follows:

"1. Six-ninths of the total amount of the tax shall be turned over by it to the custodian of county school funds. The county board of education shall immediately divide the funds with the city boards of education within the county on the same basis as the total calculated costs of the foundation program for the local boards of education within the county.

"2. One-ninth of the total amount of the tax or $150,000.00, whichever is greater, shall be paid to the Calhoun county economic development council.

"3. The balance of the total amount of the tax shall be distributed to certain municipalities as follows:

Anniston	28 1/2%
Oxford	21 1/2%
Jacksonville	28%
Piedmont	17%
Hobson City	2%
Ohatche	2%
Weaver	1%

"4. All reference in the general bill to county or municipalities shall apply to the probate judge or his designated agent in Calhoun county.

"d. Chambers county: The entire amount of the tax shall be paid to the Chambers county commission or like governing body of Chambers county, which, after the payment of all cost of collection and enforcement, shall distribute the net proceeds as follows:

"1. Fifty percent be prorated among the local boards of education for educational purposes on the basis of the previous year's net enrollment of pupils;

"2. Fifty percent be prorated among the Chambers county commission general fund and the municipalities within the county, with each municipality receiving the amount that its population bears to the entire population of the county, and the general fund of the county receiving the amount that the population of the county outside the corporate limits of the municipalities bears to the entire population of the county according to the latest federal census. In the event of the incorporation of any new municipalities, the proration shall be based on the official population of the

municipality at the time of incorporation. Any annexation shall accrue to the city annexing according to the population annexed.

"3. Fifteen percent of the amount prorated to the county general fund in subparagraph 2 of this paragraph shall be prorated among the fire and rescue squads located within the county.

"e. Choctaw county: The entire amount of tax shall be paid to the probate judge and, after reimbursement of two and one-half percent for services distributed as follows:

"1. One-ninth to the county general fund from which $7,000.00 shall be credited to:

"(i) One-third to the Choctaw county rescue squad.

"(ii) One-third to the Choctaw county historical society.

"(iii) One-third to the Choctaw county library system.

"2. Of remainder, $20,000.00 to Choctaw county board of education.

"3. Remainder up to $90,000.00 to the county and municipalities on the basis of population.

"4. Of revenue in excess of $90,000.00, 20 percent to the county board of education and remainder to the county and municipalities on the basis of population.

"f. Colbert county: One cent per twelve fluid ounces or fractional part thereof on all beer sold, within the county shall be paid to the probate judge and the proceeds shall be distributed by him or her as follows:

"Two-fifths to the hospital fund of the county;

"One-fifth to the county board of education for the benefit of the schools outside of the cities of Sheffield and Tuscumbia;

"One-tenth to the Tuscumbia board of education for the benefit of the schools of the city of Tuscumbia;

"One-tenth to the Sheffield board of education for the benefit of the schools of Sheffield; and

"One-fifth to the general fund of the county.

"For such services, the probate judge shall be entitled to commissions of two and one-half percent of all taxes collected.

"The remainder of the tax shall be paid to the municipalities where sold.

"g. Conecuh county: The entire amount of the tax shall be paid to the treasurer of Conecuh county, who, after first reimbursing

the county general fund for all expenses incurred in the administration and enforcement of the tax, shall distribute the remainder of the proceeds of said tax as follows: one-third to be prorated between the municipalities of Evergreen, Repton and Castleberry upon the basis of their respective populations; one-third to be paid over to the general fund of the county; and one-third to be paid to the Conecuh county board of education to be expended for educational purposes.

"h. Coosa county: The tax proceeds shall be paid by wholesalers as follows:

"1. One cent per container sold within the corporate limits of the municipalities within the county shall be paid directly to the municipalities where sold.

"2. The remainder of the tax shall be paid to the Coosa county commission and shall be distributed as follows:

"(i) Fifty percent shall be deposited in the public school fund of the county to be used solely for public school purposes of Coosa county.

"(ii) Fifty percent shall be deposited in the general fund of the county for general purposes of the county.

"i. Dale county: Any law to the contrary notwithstanding, in Dale county, the proceeds of the beer tax collected pursuant to this article shall be paid to the county commission and distributed as follows:

"1. 44.17 percent to the Dale county commission;

"2. The remaining 55.83 percent of the tax shall be distributed to each municipality according to beer sales in its respective corporate limits.

"j. Dallas county: The entire amount of the tax collected on sales outside of the area comprised by the corporate limits and police jurisdiction of the city of Selma shall be paid to the Dallas county commission.

"The tax collected on sales inside the corporate limits of the city of Selma and its police jurisdiction shall be paid as follows: 72.23 percent to be paid to the city and its board of education, with one-third of such 72.23 percent to be paid to the city and two-thirds of such 72.23 percent to be paid to the city board of education (the board of education of the city of Selma); and 27.77 percent to be paid to the Dallas county commission.

"k. Elmore county: The entire amount of tax shall be paid to the Elmore county commission or other governing body of Elmore

county and the net revenue, after first reimbursing the county general fund for all expenses incurred in the administration and enforcement of the tax, shall be distributed as follows: One-half of the net revenue from the tax shall be paid to Elmore county board of education; one-half the tax collected on sales inside the corporate limits of any municipality within the county and one-fourth of the taxes collected on sales made within the police jurisdiction of any municipality in the county shall be paid to such municipality; and the balance shall be paid into the Elmore county general fund.

"l. Escambia county: The entire amount of tax shall be paid to the judge of probate of Escambia county and the net revenue, after first reimbursing the county general fund for all expenses incurred in the administration and enforcement of the tax, shall be distributed, as follows: Two and one-half percent to the judge of probate; 60 percent of the remainder to be prorated among the municipalities within the county upon the basis of their respective populations; and 40 percent of the remainder to be prorated among the local boards of education for educational purposes on the basis of the previous year's net enrollment of pupils.

"m. Etowah county: The entire amount of tax shall be paid to the Etowah county commission and the net revenue, after first reimbursing the county general fund for all expenses incurred in the administration and enforcement of the tax, shall be distributed, as follows:

"1. For beer delivered for retail sale within the corporate limits of a municipality having a board of education, all such proceeds shall be distributed according to the following percentages: 20.83 1/3 percent to the Etowah county general fund; 20.38 1/3 percent to the local boards of education of Etowah county, to be divided pro rata among them in accordance with the most recent average daily membership figures, to be used only for capital outlay purposes, renovation and repairs; 58.33 1/3 percent to the general fund of the municipality.

"2. For beer delivered for retail sale outside the city or town limits, but within the police jurisdiction, of a municipality having a board of education, all such proceeds shall be distributed according to the following percentages: 12.50 percent to the Etowah county board of education, to be used for capital outlay purposes, renovation and repairs; 20.83 1/3 percent to the local boards of education in Etowah county to be divided pro rata among them in accordance with the most recent average daily membership figures, to be used for capital outlay purposes, renovation, and repairs; 29.16 2/3 percent to the general fund of the municipality; 37.50 percent to the Etowah county general fund.

"3. For beer delivered for retail sale within the city or town limits of a municipality not having a board of education, all such proceeds shall be distributed according to the following percentages: 20.83 1/3 percent to the Etowah county general fund; 20.83 1/3 percent to the local boards of education in Etowah county, to be divided pro rata among them in accordance with the most recent average daily membership figures, to be used for capital outlay purposes, renovation and repairs; 33.33 1/3 percent to the general fund of the municipality; 25.00 percent to the Etowah county board of education to be used for capital outlay purposes, renovation and repairs;

"4. For beer delivered for retail sale outside the city or town limits, but within the police jurisdiction of a municipality not having a board of education, all such proceeds shall be distributed according to the following percentages: 16.66 2/3 percent to the general fund of the municipality; 20.83 1/3 percent to the local boards of education within Etowah county to be divided pro rata among them in accordance with the most recent average daily membership figures, to be used for capital outlay purposes, renovation and repairs; 25.00 percent to the Etowah county board of education, to be used for capital outlay purposes, renovation and repairs, 37.50 percent to the Etowah county general fund.

"5. For beer delivered for retail sale in locations which are within the boundaries of Etowah county, Alabama, but not within the corporate limits or police jurisdiction of any municipality, all such proceeds shall be distributed according to the following percentages: 20.83 1/3 percent to the local boards of education in Etowah county divided in accordance with the most recent average daily membership figures to be used for capital outlay purposes, renovation or repairs; 25.00 percent to the Etowah county board of education, to be used for capital outlay purposes, renovation or repairs; 54.16 2/3 percent to the Etowah county general fund.

"6. For draft beer sold and delivered within all areas in Etowah county, all proceeds shall be distributed according to the following percentage: 83.33 1/3 percent to the local boards of education in Etowah county to be divided pro rata among them in accordance with the most recent average daily membership figure to be used for capital outlay purposes, renovation and repairs; 16.66 2/3 percent to the municipalities in Etowah county within which draft beer is sold at retail, to be divided among them pro rata according to the population.

"n. Greene county: The entire amount of the tax shall be paid to the judge of probate of Greene county and distributed by him or her as follows: two and one-half percent to the probate judge as

commission for collection and administration; two-fifths of the remainder to the general fund of the county; two-fifths of the remainder to the county board of education; and one-fifth prorated among the municipalities within the county upon the basis of their respective populations.

"o. Hale county: The entire amount of tax shall be paid to the Hale county commission or like governing body of Hale county and the net revenue, after first reimbursing the county general fund for all expenses incurred in the administration and enforcement of the tax, shall be prorated among the county and municipalities therein upon the basis of their respective populations.

"p. Jefferson county: The tax as provided in subsection (a) of this section shall be paid by wholesalers to the director of revenue of Jefferson county. The tax received by the director of revenue shall be divided into Funds A, B and C. Fund A shall receive four-ninths of the tax received; Fund B shall receive two-ninths of the tax received; and Fund C shall receive three-ninths of the tax received. Funds A, B and C shall be distributed by the director of revenue on a monthly basis as follows:

"1. Two percent of the net tax collected and placed in Fund A shall be paid to the general treasury of the county for the collection and distribution of said tax, and for the enforcement of the provisions of this article. The remaining amount in Fund A shall be distributed as follows:

"(i) Two-eighths shall be paid to the county board of education for the payment of salaries of public school teachers.

"(ii) Three-eighths shall be retained in the general treasury of the county.

"(iii) Three-eighths shall be distributed to the incorporated municipalities within the county upon the basis of their respective populations, according to the federal census at the time the distribution is made.

"2. Fund B shall be distributed to the municipalities in the county on the basis of the percentage of the beer taxed which was delivered to a retailer within the respective corporate limits of each municipality in the county.

"3. Fund C shall be distributed as follows:

"(i) Fifty percent, or $2,000,000.00 annually, whichever is the greater, shall be paid to the Birmingham-Jefferson county transit authority or its successor.

"(ii) The balance shall be divided between the county and the incorporated municipalities within the county upon a population

basis with the municipal share determined by the respective populations of said municipalities, and the county share by the population of the unincorporated areas thereof, according to the last federal census at the time the distribution is made.

"(iii) Of the total amount of the county share, five percent shall be allocated for fire protection and paramedic services and equipment in fire districts in the unincorporated areas of the county. Such distribution shall be made to each such fire district on a pro rata basis that the number of homes and businesses served in that district bears to the total number of homes and businesses served in all such fire districts in the unincorporated areas.

"q. Lee county: The entire amount of tax shall be paid to the Lee county commission or like governing body of Lee county and shall be distributed to the custodian of the county school fund, the custodian of the Opelika city school fund and the custodian of the Auburn city school fund on the same basis as the total calculated costs of the foundation program for the local boards of education within the county. Provided however that any subsidy received shall be paid to the city of Auburn.

"r. Lowndes county: The tax proceeds shall be paid by wholesalers as follows:

"1. One cent shall be distributed to municipalities in the following manner:

"(i) One-third to municipalities that have an existing beer tax distributed on a population basis.

"(ii) Two-thirds to go to all municipalities including those that have an existing beer tax distributed on a population basis.

"2. One cent to be distributed as follows:

"(i) One-twelfth to the county board of education and three-twelfths to the probate judge for services rendered.

"(ii) Two-thirds to the county commission for the performance of services.

"3. The remainder to be equally divided between the public school fund and the juvenile service trust fund account.

"s. Macon county: The entire amount of tax shall be paid to the Macon county commission or like governing body of Macon county and the net revenue, after first reimbursing the county general fund for all expenses incurred in the administration and enforcement of the tax, shall be distributed by it as follows: Six-twelfths of the net proceeds shall be paid into the general fund of said county

to be used for governmental purposes of the county as other moneys in the general fund; four-twelfths shall be apportioned and distributed to the city of Tuskegee and shall be deposited into its general fund to be used for governmental purposes of the city as other moneys in the general fund of said city are used; one-twelfth shall be apportioned and distributed to the town of Notasulga and deposited into the general fund of said town to be used for governmental purposes of the town as are other moneys in the general fund of said town; one-twelfth shall be apportioned and distributed to the town of Franklin and deposited into the general fund of said town to be used for governmental purposes of the town as are other moneys in the general fund of said town.

"t. Madison county: The proceeds of the tax shall be paid by wholesalers to the county commission or like governing body and shall be distributed as follows:

"1. One-eighteenth to the county general fund.

"2. The remainder of the tax shall be distributed to the municipality where sold, including its police jurisdiction. Provided, however, that the following municipalities shall receive a dollar amount no less than the dollar amount actually received during the base year 1982:

Gurley

New Hope

Owens Crossroads

Triana

Madison

"u. Marengo county: The entire amount of the tax shall be paid to the probate judge of Marengo county, who shall receive two and one-half percent of all taxes collected as compensation for administering this article and the remainder of the net revenue, after first reimbursing the county general fund for all expenses incurred in the administration and enforcement of the tax, shall be distributed by him or her as follows: The municipalities shall receive the taxes paid on all sales within the corporate limits and police jurisdiction of each municipality, and the county shall receive the tax on all sales made outside the corporate limits and police jurisdictions of all municipalities within the county.

"v. Mobile county: The entire amount of tax shall be paid to the license commissioner of Mobile county and the net revenue, after first reimbursing the county general fund for all expenses incurred in the administration and enforcement of the tax, shall be

distributed by him or her as follows: One-half to the governing body of the municipality where the malt or brewed beverages are sold within its corporate limits; and the remainder to the board of school commissioners of Mobile county.

"w. Perry county: The tax shall be paid to the county governing body and be distributed as follows:

"1. Except as hereinafter provided in subparagraph 2 of this paragraph, the proceeds shall be distributed as follows:

"(i) The taxes collected on sales within the corporate limits of the municipality of Marion shall be paid to said municipality.

"(ii) The taxes collected on sales within the corporate limits of the municipality of Uniontown shall be paid to said municipality.

"(iii) The taxes collected on sales outside the police jurisdiction of a municipality and outside the corporate limits of any municipality shall be retained by the county.

"(iv) The taxes collected on sales outside of a municipality's corporate limits but within said municipality's police jurisdiction shall be distributed in the following manner:

"Three-fourths of the tax proceeds shall be retained by the county.

"One-fourth of the tax proceeds shall be paid to the municipality controlling said police jurisdiction.

"2. Until the conditions set forth in this subparagraph 2 have been satisfied, one-ninth shall be deducted from each of the foregoing distributions and retained by Perry county and earmarked for the purpose of purchasing mechanical voting machines with lever action and curtain and creating an election expense fund in the amount of $20,000.00. Said voting machines shall be purchased by May 1, 1982, and said election expense fund shall be used to pay board of registrars members' compensation and for election supplies and materials, election handling, storage and other expense. When the cost of the voting machines and election expense fund have been collected by the county, the right to deduct pursuant to this subparagraph 2 shall expire and the entire proceeds shall be distributed pursuant to and in accordance with subparagraph 1 hereof.

"x. Russell county: The taxes shall be paid and distributed as follows:

"1. Payment of taxes collected by wholesalers.

"(i) All the taxes collected on sales within the corporate limits of the municipality of Phenix City shall be paid to said municipality.

"(ii) All the taxes collected on sales within the corporate limits of the municipality of Hurtsboro shall be paid to said municipality.

"(iii) One-half the taxes collected on sales within the police jurisdiction of Phenix City and Hurtsboro shall be paid to the respective municipality and the remaining one-half shall be paid to the county.

"(iv) All of the taxes on sales outside the corporate limits of any municipality and outside of any police jurisdiction shall be paid to the county.

"2. Distribution of county proceeds. All such taxes, after first reimbursing the county general fund for all expenses incurred in administration and enforcement of the tax, shall be used equally for the county school system and the county general fund. Of the moneys going to the county general fund, half of said amount shall be distributed to the volunteer fire departments in Russell county on a per department basis, who are recognized as legal fire districts.

"y. St. Clair county: The entire amount of tax shall be paid to the St. Clair county commission or like governing body of St. Clair county and the net revenue, after reimbursing the county general fund for all expenses incurred in the administration and enforcement of the tax, shall be distributed by it as follows: One-third cent per four fluid ounces or fraction thereof to the governing body of each municipality where beer is sold within its corporate limits and one-sixth cent per four fluid ounces or fraction thereof to the governing body of each municipality where beer is sold within its police jurisdiction; the remainder to be distributed as follows: 25 percent to be paid to the road and building fund of the general fund of St. Clair county, which money shall be used for the operation of the St. Clair county road department, in the building and maintenance of all public roads and bridges in the county; 20.83 1/3 percent of the remainder to the St. Clair county board of education; 8.33 1/3 percent of the remainder to the St. Clair county library board to be used by the board for the use of libraries and/or book mobiles throughout the county; and 45.83 1/3 percent to the general fund of St. Clair county to be disbursed by the St. Clair county governing body as other funds of the county are disbursed.

"z. Shelby county: The entire amount of tax shall be paid to the Shelby county commission or like governing body of Shelby county to the credit of its county general fund and the net revenue, after first reimbursing the county general fund for all expenses incurred in the administration and enforcement of the tax, shall be disbursed as follows: Two-ninths of the net proceeds of such tax shall be paid to the Shelby county board of education; three-ninths of

the net proceeds of such tax shall, on or before the 25th day of each month, be paid to the municipalities of Shelby county in the same ratio as the population of each municipality bears to the total population of all municipalities in Shelby county; two-ninths shall be paid into the Shelby county law enforcement personnel board fund to be used for the purposes set forth in Act No. 79-524, Acts of Alabama 1979; and the remaining two-ninths of the net proceeds shall remain in the Shelby county general fund to be disbursed by the county governing body.

"aa. Sumter county: The entire proceeds of the tax shall be paid to the county treasurer. After the payment of all cost of collection and enforcement of the tax, the treasurer shall pay into the general fund of each incorporated municipality four-ninths of the revenue produced within the corporate limits of said municipality and the remainder shall be paid into the general fund of the county, from which $7,000.00 shall be credited to a legislative delegation fund to be controlled by the legislative delegation of Sumter county.

"bb. Talladega county: The tax shall be paid to the probate judge and, after deduction of all expenses of collecting and administering the tax, the proceeds of the tax shall be distributed as follows: After determining net revenue received in the base year (county plus all municipalities), distribution of future revenue to each entity presently receiving beer tax distributions shall be in the same proportion as each entity's revenue to the total net revenue was during the base year.

"The following entities shall be entitled to a share of beer tax revenue:

"Talladega County	Community of Munford
"Talladega County Board	Community of Eastaboga
"of Education	North Talladega County
	Association for Retarded
	Citizens, Inc.
"City of Talladega	
"City of Sylacauga	South Talladega County
"City of Childersburg	Association for Retarded
	Citizens, Inc.
"City of Lincoln	

"Provided, however, that from the county share, the sum of $6,500.00 shall be spent as follows:

"1. The sum of $1,500.00 per annum shall be spent in the unincorporated community of Eastaboga for public projects for the benefit of said community;

"2. The sum of $2,500.00 per annum shall be spent in the unincorporated community of Munford to provide rural health care in the existing rural health clinic in said community; and

"3. The sum of $2,500.00 per annum shall be spent in the unincorporated community of Munford for youth activities, including the construction, improvement, lighting and maintenance of athletic playing fields.

"The North and South Talladega County Associations for Retarded Citizens, Inc. shall receive from the county the same proportion of revenue received during the base year (1982).

"Provided further, that the Talladega county board of education shall divide its share of the beer tax revenue between itself and the city boards of education now existing within the county on the same basis as the total calculated costs of the foundation program for the local boards of education within the county.

"cc. Tallapoosa county: The tax, after converting all sales to cases equivalent to 24 12-ounce containers and after deducting the two and one-half percent discount authorized by this article, shall be paid by wholesalers as follows:

"1. Two cents per equivalent 12-ounce container sold or delivered to retail licensees within the county shall be paid to the custodian of public school funds of Tallapoosa county and shall be used and expended for public school purposes. Such funds shall be apportioned among the local boards of education on the same basis as the total calculated costs of the foundation program for the local boards of education within the county.

"2. The remainder of the tax shall be paid to the county commission or like governing body and distributed as follows:

"56.4 percent to Alexander City

"43.6 percent to the county for distribution, based on sales, either into the treasury of the municipalities (except Alexander City) in which the beer was sold or delivered by a wholesaler to a retailer within its corporate limits, or, where sold outside the corporate limits of any municipality into the treasury of the county.

"3. Any subsidy received under the provisions of this article shall be distributed as provided for in subparagraph 2 above.

"dd. Tuscaloosa county:

"1. Forty-five percent of the tax shall be paid to the probate judge of Tuscaloosa county and shall by him be distributed in the same manner as provided in Act 556 of the 1953 Regular Session of the Alabama Legislature; and 55 percent shall be paid to the probate judge of Tuscaloosa county and shall by him or her be distributed in accordance with Act 81-739 of the 1981 Regular Session of the Alabama Legislature.

"2. Any subsidy received by Tuscaloosa county pursuant to section 28-3-196 shall be paid and distributed among the county, municipalities and the Tuscaloosa county parks and recreation authority in accordance with the ratio of any net revenue loss of each such entity to the total subsidy paid to the county.

"ee. Wilcox county: The entire tax revenue shall be paid to the Wilcox county commission or like governing body of Wilcox county and disbursed as follows: Two and one-half percent of the gross tax receipts to be paid as to the probate judge of Wilcox county as a fee for the administration and enforcement; the remainder shall be disbursed as follows: 50 percent to be prorated between the incorporated municipalities in Wilcox county upon the basis of their respective populations; and 50 percent to be paid over to the general fund of the county. Provided, however, prior to the distribution provided for in this subsection, the sum of $400.00 per month shall be paid to the Wilcox county civil defense agency.

"(3) Or, such tax shall otherwise be paid and disposed of in accordance with and pursuant to any local act or general act of local application hereafter enacted with respect to any county directing a different disposition or apportionment of the proceeds of the tax.

"(d)(1) For all purposes of enforcement of the provisions of this article, it is a prima facie presumption of law that any wholesaler or jobber subject to the article has accrued a liability for the taxes levied herein for the total amount of alcoholic beverages handled by it during any tax period under the article. The burden of proof is upon any such person to prove that any such alcoholic beverages disposed of in such a manner as not to become subject to the taxes imposed in this article were so disposed of in such a manner. It shall be the duty of any person subject to the privilege or license tax imposed by this article to keep full and complete records of all purchases, sales, receipts, inventories and of all other matters from which the correct amount of privilege or license tax to which such person is subject may be ascertained; and, in the event that such person shall discontinue his or her business, he or she shall not destroy or dispose of such records until he or she shall have given the probate judge of the county 30 days' notice in writing of

his or her intent to destroy or dispose of such records. The failure of such person to keep such records, or his or her destruction or disposition of such records without giving such notice, shall constitute a misdemeanor.

"(2) Upon demand by the probate judge or his or her authorized deputy, auditor or representative, it shall be the duty of any such person subject to the privilege or license tax imposed by this article to furnish such demanding person, without delay, all such information as may be required for determination of the correct amount of privilege or license tax to which such person is subject, and to that end it shall be the duty of such person to submit to such demanding person, for inspection and examination, during reasonable hours, at such person's place of business within the county, all books of accounts, invoices, papers, reports, memoranda containing entries showing the amount of purchases, sales, receipts, inventories, and any other information from which the correct amount of privilege or license tax to which such person is subject may be determined including exhibition of bank deposit books and bank statements; and any person failing or refusing to submit such records for such inspection and examination upon such demand, shall be guilty of a misdemeanor.

"(3) If any person subject to the provisions of this article does not have in such person's control or possession, within the county, true and intelligible books of account, invoices, papers, reports or memoranda correctly showing the data and information necessary for determination of the correct amount of the privilege or license tax due, or if, having in such person's possession or under such person's control such books, invoices, papers, reports or memoranda, such person shall fail or refuse to submit and exhibit the same for inspection and examination as herein required, then, in either event, it shall be the duty of the probate judge of the county to ascertain, from such information and data as he may reasonably obtain, the correct amount of license tax due from such person and immediate payment of the amount of such privilege or license tax shall be made.

"(4) All records and reports filed in the probate office under this article shall be public records and shall be open to inspection by any person during all probate office hours.

"(5) The probate judge of the county shall provide rules and regulations and administrative machinery for the enforcement and collection of the privilege or license taxes authorized by this article. Each municipality within the county shall provide aid and assistance in collecting the taxes herein provided for within its territory. The probate judge may employ a person or persons to act as

inspectors and otherwise to assist in the enforcement of the provisions of this article. The salary and expenses of such inspectors shall be paid out of the county general fund in such manner as is provided by law. Such inspectors shall have the same powers relative to enforcement of the taxes hereby levied that law enforcement officers employed by the Alabama alcoholic beverage control board have relative to enforcing the state tax on spirituous liquors and on malt and brewed beverages. Any municipality in the county may also employ a special alcoholic beverage law enforcement officer for such municipality whose chief duty shall be enforcement of this article.

"(6) In addition to all other records and reports required under this article, each wholesale distributor shall, by the twentieth day of each month, file a report with the probate judge showing his or her inventory of beer on the first day of the preceding month, by brand and type of container, his or her inventory of beer on the last day of the preceding month, an accounting for all beer broken or damaged during the preceding month, proof of state authorization for transfers to other wholesale distributors, and a record of all beer in transit to such distributor from breweries.

"(7) In addition to all other records and reports required under this article, each private club shall file with the probate judge on or before the twentieth day of each month detailed inventory of all alcoholic beverages on hand on the first day and the last day of the preceding month, and a record of all purchases of alcoholic beverages made by it during the preceding month.

"(8) In addition to all other reports and records required under this article, each retail beer seller shall file with the probate judge on or before the twentieth day of each month a detailed inventory of all beer on hand on the first day and the last day of the preceding month.

"(9) The license of any wholesale distributor, private club, or retail seller failing or refusing to file the reports shall be suspended forthwith by the probate judge pending receipt of such report.

"(e) The tax herein levied is exclusive and shall be in lieu of all other or additional local taxes and licenses, county or municipal, imposed on or measured by the sale or volume of sale of beer; provided that nothing herein contained shall be construed to exempt the retail sales of beer from the levy of a tax on general retail sales by the county or municipality in the nature of, or in lieu of, a general sales tax."

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are hereby repealed.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, and shall be implemented with the beginning of the 1995-96 fiscal year.

Approved June 26, 1995

Time: 1:50 P.M.

Act No. 95-262

H. 467 – Reps. McMillan, Wren, Hooper, Penry, Clark (J), Hammett, Baker, Sims, McKee, Jorgensen, Clouse, Fuller, Flowers, Sanderford, Haney, Thomas (D), Laird, Vance, Seibenhener, Sanderson, Carns, Curry, Townsend, Gaines, Knight (A), Dean, Moore, Rogers (M), Pringle, Dolbare, Maull, Morton, Collins, Gipson, Guin

AN ACT

To require the state board of education to review requirements for teacher education; to cause colleges and universities which offer a teacher preparation program to require as a condition for graduation that their students preparing to be teachers pass a nationally normed teacher education test; to authorize the state board of education to approve the use and determine the level deemed to be a passing of the test; to require out-of-state graduates to pass the said nationally normed test before being certified.

Be It Enacted by the Legislature of Alabama:

Section 1. The legislature finds a compelling interest in adequately preparing teachers to teach. The two basic components of teaching consist of knowing what to teach (content) and knowing how to teach (methodology). To assure that teachers entering Alabama's classrooms have been thoroughly prepared, the legislature directs the state board of education to review the requirements of programs for teacher education and preparation and select a nationally normed teacher examination to be used. The nationally normed teacher examination may include the National

Teacher Exam or any other national equivalent exam. Colleges and universities shall require each teacher candidate to pass the nationally normed examination as a condition of graduation. Notwithstanding any other provisions of this act, a person can, at any time, elect to not be a teacher candidate. The state board of education shall prescribe the manner in which the examination is to be administered and shall further determine the standard to be used for passing the examination.

Section 2. Graduates of teacher education programs who apply for certification who have attended out-of-state colleges and universities must also pass the same nationally normed teacher examination as required of students attending teacher preparation programs in Alabama. The examination shall be administered in a manner prescribed by the state board of education. The same standard used for passing the examination for students enrolled in teacher preparation programs at colleges and universities in Alabama shall be applicable.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 4. All laws or parts of laws which conflict with this act are hereby repealed.

Section 5. This act shall become effective for teacher education candidates who enter their program effective August 1, 1995.

Approved June 26, 1995

Time: 1:51 P.M.

Act No. 95-263 **H. 599 – Rep. Hammett**

AN ACT

To state the legislative intent; to define terms used in this act; to designate the Board of Nursing as the sole state authority to establish the qualifications necessary for a registered nurse to be certified as an advanced practice nurse; to authorize the Board of Nursing to adopt rules and regulations governing the certification of the advanced practice nurse; to provide that the State Board of Medical Examiners and the Board of Nursing shall regulate the collaborative practice of physicians and advanced practice nurses which includes certified registered nurse practitioners and certified nurse midwives, to require persons wishing to engage in those two categories of advanced practice nursing to be certified by the Board of Nursing and practice in accordance with protocols approved by the State Board of Medical Examiners and the Board of Nursing to recommend rules and regulations to govern the collaborative relationship between physicians and those two categories of advanced practice nurses; to authorize two categories of advanced practice nurses to prescribe legend drugs; to specify prohibited acts; to establish requirements for disciplinary actions to be initiated by the State Board of Medical

Examiners and the Board of Nursing; and to authorize the State Board of Medical Examiners and the Board of Nursing to seek a civil injunction against any person engaged in advanced practice nursing in violation of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. The legislature of the State of Alabama declares that the recognition and regulation of all areas of advanced practice nursing and the collaborative practices between licensed physicians and certified registered nurse practitioners and certified nurse midwives are essential to protect and maintain the public health and safety.

Section 2. As used in this act, the following terms shall have the following meanings:

(1) BOARD OF MEDICAL EXAMINERS. The State Board of Medical Examiners established pursuant to Code of Alabama 1975, §34-23-53.

(2) BOARD OF NURSING. The Board of Nursing established under Code of Alabama 1975, §34-23-2.

(3) ADVANCED PRACTICE NURSE. A registered nurse that has gained additional knowledge and skills through successful completion of an organized program of nursing education that prepares nurses for advanced practice roles and has been certified by the Board of Nursing to engage in the practice of advanced practice nursing. There shall be four categories of advanced practice nurses: certified registered nurse practitioners (CRNP), certified nurse midwives (CNM), certified registered nurse anesthetists (CRNA) and clinical nurse specialists (CNS). Certified registered nurse practitioners and certified nurse midwives are subject to the collaborative practice agreements with an Alabama physician. Certified registered nurse anesthetists and clinical nurse specialists are not subject to collaborative practice agreements with an Alabama physician and are not subject to the requirements of Sections 3, 4, 6, 7, 8, 9, 10, 11, 12 and 13 of this act and are prohibited from engaging in any of the acts or functions of a certified registered nurse practitioner (CRNP) or a certified nurse midwife (CNM) as established by this act and regulations adopted under this act.

(4) ADVANCED PRACTICE NURSING. The delivery of health care services by registered nurses who have gained additional knowledge and skills through successful completion of an organized program of nursing education that prepares nurses for advanced practice roles as certified registered nurse practitioners, certified nurse midwives, certified nurse anesthetists, and clinical nurse specialists:

a. practice as a certified registered nurse practitioner (CRNP) means the performance of nursing skills by a registered nurse who has demonstrated by certification that he/she has advanced knowledge and skills in the delivery of nursing services within a health care system that provides for consultation, collaborative management or referral as indicated by the health status of the client;

b. practice as a certified nurse midwife (CNM) means the performance of nursing skills by a registered nurse who has demonstrated by certification that he/she has advanced knowledge and skills relative to the management of women's health care focusing on pregnancy, childbirth, the post-partum period, care of the newborn, family planning and gynecological needs of women, within a health care system that provides for consultation, collaborative management or referral as indicated by the health status of the client;

c. practice as a certified registered nurse anesthetist (CRNA) means the performance of nursing skills by a registered nurse who has demonstrated by certification that he/she has advanced knowledge relative to the administration of anesthetics in the presence and under the supervision of a licensed physician or dentist and is consistent with Code of Alabama 1975, §27-46-3;

d. practice of clinical nurse specialist (CNS) nursing means the performance of nursing skills by a registered nurse who, through study and supervised practice at the graduate level and as evidenced by certification, has advanced knowledge and practice skills in a specialized area of practice except that a clinical nurse specialist may not:

1. perform delegated medical acts or engage in collaborative practice as described in this act.

2. perform any of the functions of a certified registered nurse practitioner or a certified nurse midwife as described in this act and the regulations adopted under this act, whether or not performed within a collaborative practice relationship.

3. prescribe drugs of any type. A clinical nurse specialist may perform nursing services permitted under this subsection as an independent contractor.

(5) COLLABORATION. A formal relationship between one or more certified registered nurse practitioners and certified nurse midwives and a physician or physicians under which these nurses may engage in advanced practice nursing as evidenced by written protocols approved in accordance with the requirements of this act or exempted in accordance with requirements of this act. The term collaboration does not require direct, on-site supervision of the

activities of a certified registered nurse practitioner or a certified nurse midwife by the collaborating physician. The term does require such professional oversight and direction as may be required by the rules and regulations of the State Board of Medical Examiners and the Board of Nursing.

(6) PHYSICIAN OR COLLABORATING PHYSICIAN. A doctor of medicine or a doctor of osteopathy licensed to practice medicine in Alabama who agrees in writing to practice in collaboration with one or more certified registered nurse practitioners or certified nurse midwives in accordance with the rules and regulations adopted by the State Board of Medical Examiners and the Board of Nursing.

(7) JOINT COMMITTEE OF THE STATE BOARD OF MEDICAL EXAMINERS AND THE BOARD OF NURSING FOR ADVANCED PRACTICE NURSES. The Joint Committee of the State Board of Medical Examiners and the Board of Nursing for Advanced Practice Nurses shall mean and shall be a committee composed of

a. two physicians licensed to practice medicine in the State of Alabama;

b. one registered nurse licensed to practice professional nursing in the State of Alabama;

c. one licensed physician engaged in a collaborative practice with a certified registered nurse practitioner or a certified nurse midwife in the State of Alabama;

d. one certified registered nurse practitioner engaged in advanced practice with a physician in the State of Alabama; and

e. one certified nurse midwife engaged in advanced practice with a physician in the State of Alabama.

(8) LEGEND DRUG. Any drug, medicine, chemical or poison bearing on the label the words, "Caution, Federal Law prohibits dispensing without prescription" or similar words indicating that such drug, medicine, chemical, or poison may be sold or dispensed only upon the prescription of a licensed practitioner, except that the term legend drug shall not include any drug, substance, or compound which is listed in Schedules I through V of the Alabama Uniform Controlled Substances Act.

(9) PRESCRIBE OR PRESCRIBING. The act of issuing a written prescription for a legend drug.

(10) PRESCRIPTION. An order for a legend drug which is written and signed by a practitioner authorized by law to prescribe

and administer such drugs and which is intended to be filled, compounded, or dispensed by a pharmacist.

(11) PROTOCOL. A document approved in accordance with Section 8 of this act establishing the permissible functions and activities to be performed by certified registered nurse practitioners and certified nurse midwives and signed by collaborating physicians and any nurse practitioners or nurse midwives practicing with those physicians.

Section 3. (a)(1) The physician members of the Joint Committee shall be appointed by the State Board of Medical Examiners and shall serve three-year terms as set out below.

(2) The registered nurse members of the Joint Committee shall be appointed by the Board of Nursing and shall serve three-year terms as set out below.

(b)(1) In order to stagger the terms of office, the Board of Nursing and the State Board of Medical Examiners will each appoint to the initial Joint Committee one member for a term of one year, one member for a term of two years, and one member for a term of three years. Should a vacancy occur on the committee, a successor will be appointed to serve the unexpired term. The committee shall select one of its members to serve as chairperson for a one-year term.

(2) The office of chairperson shall alternate between a physician member of the committee and a nurse member of the committee.

(3) The committee shall meet annually, or more frequently if requested by the State Board of Medical Examiners or the Board of Nursing. Members of the committee shall receive per diem at a rate of $100.00 per day or any portion thereof that such a committee member shall be in attendance at an official meeting or function of the committee and in addition shall receive reimbursement for subsistence and travel in accordance with state law for each day actively engaged in the duties of their offices. The State Board of Medical Examiners and the Board of Nursing shall pay per diem and expenses of the members each appoints to the Joint Committee and shall furnish necessary clerical and administrative support for operation of the committee.

Section 4. The State Board of Medical Examiners shall establish the qualifications for physicians who are engaged in collaborative practice with certified registered nurse practitioners and certified nurse midwives. The Board may adopt rules and regulations to accomplish the purposes of this section.

Section 5. (a) The Board of Nursing shall be the sole state authority designated to establish the qualifications necessary for a registered nurse to be certified to engage in advanced practice nursing. The Board of Nursing shall recognize the educational qualifications and training of advanced practice nurses by the issuance of a certification of qualification to engage in advanced practice nursing. To be eligible for certification, an applicant shall be currently licensed as a registered nurse in Alabama and shall meet the requirements for certification as an advanced practice nurse as defined in the rules and regulations established by the Board of Nursing.

(b) Pursuant to Section 5 (a) above, the Board of Nursing may adopt rules and regulations establishing the procedures for individuals to be certified to engage in advanced practice nursing, as well as grounds for denial or termination of certification or both, and the fees to be paid to the Board of Nursing in connection with an application for certification.

Section 6. The Joint Committee shall be the state authority designated to recommend rules and regulations to the State Board of Medical Examiners and the Board of Nursing for the purpose of regulating the collaborative practice of physicians and certified registered nurse practitioners and certified nurse midwives. No person may practice as a certified registered nurse practitioner or a certified nurse midwife in this state unless that person possesses a certificate of qualification issued by the Board of Nursing and practices under written protocols approved by the State Board of Medical Examiners and the Board of Nursing and signed by a qualified collaborating physician or physicians and certified registered nurse practitioner or certified nurse midwife or is exempt from the requirement of a written protocol according to rules promulgated by the State Board of Medical Examiners and the Board of Nursing. The Joint Committee shall recommend to the State Board of Medical Examiners and the Board of Nursing rules and regulations designed to govern the collaborative relationship between physicians and certified registered nurse practitioners and certified nurse midwives certified by the Board of Nursing to engage in these areas of advanced practice nursing. These rules and regulations shall be finally adopted by July 1, 1996. These rules and regulations and any and all additions, deletions, corrections, or changes thereto shall be considered rules and regulations requiring publication under the Alabama Administrative Procedure Act; however, the following shall not be considered rules or regulations under the Administrative Procedure Act:

(1) Protocols for use by certified registered nurse practitioners and certified nurse midwives certified to engage in these two areas

of advanced practice nursing in collaboration with a physician; and

(2) The formulary of legend drugs that may be prescribed by certified registered nurse practitioners and certified nurse midwives authorized to do so.

Section 7. (a) Certified registered nurse practitioners and certified nurse midwives, engaged in collaborative practice with physicians practicing under protocols approved in the manner prescribed by this act may prescribe legend drugs to their patients, subject to both of the following conditions:

(1) The drug type, dosage, quantity prescribed, and number of refills shall be authorized in an approved protocol signed by the collaborating physician; and

(2) The drug shall be on the formulary recommended by the Joint Committee and adopted by the State Board of Medical Examiners and the Board of Nursing.

(b) A certified registered nurse practitioner or a certified nurse midwife may not initiate a call-in prescription in the name of a collaborating physician for any drug, whether legend or controlled substance, which the nurse practitioner or certified nurse midwife is not authorized to prescribe under the protocol signed by the collaborating physician and certified registered nurse practitioner or certified nurse midwife and approved under this section unless the drug is specifically ordered for the patient by the physician, either in writing or by a verbal order which has been reduced to writing, and which has been signed by the physician within a time specified in the rules and regulations approved by the State Board of Medical Examiners and the Board of Nursing.

(c) Registered nurses and licensed practical nurses are authorized to administer any legend drug that has been lawfully ordered or prescribed by an authorized practitioner including certified registered nurse practitioners, certified nurse midwives, and/or assistants to physicians.

Section 8. Notwithstanding any other provisions of this act, the Joint Committee shall recommend model practice protocols to be used by certified registered nurse practitioners and certified nurse midwives and a formulary of legend drugs that may be prescribed by these advanced practice nurses, subject to approval by both the State Board of Medical Examiners and the Board of Nursing. The Joint Committee shall also recommend rules and regulations to establish the ratio of physicians to certified registered nurse practitioners and certified nurse midwives; provided, however, that the rules and regulations shall not limit the ratio to less than two nurse practitioners or midwives to one physician or

one certified registered nurse practitioner and one certified nurse midwife to one physician and shall provide for exceptions. The Joint Committee shall also recommend rules and regulations that establish the manner in which a collaborating physician may designate a covering physician when temporarily unavailable as the collaborating physician.

Section 9. The following acts shall constitute grounds for the termination by the Board of Nursing of a certified registered nurse practitioner's or a certified nurse midwife's certificate of qualification to engage in these areas of advanced practice nursing and for the termination of the approval of the State Board of Medical Examiners of the collaborating practice of a physician and certified registered nurse practitioner or a certified nurse midwife, or both:

(1) Prescribing in violation of this act or the rules and regulations of the State Board of Medical Examiners or the Board of Nursing.

(2) For a certified registered nurse practitioner or a certified nurse midwife to engage in any act or render any services not authorized in his or her protocol or for a physician to require or to knowingly permit or condone such an act.

(3) Failure on the part of a certified registered nurse practitioner or a certified nurse midwife to maintain current licensure with the Board of Nursing or failure of a physician to maintain current licensure with the Medical Licensure Commission.

(4) The commission of any act by a certified registered nurse practitioner or a certified nurse midwife which would constitute a violation of Code of Alabama 1975, §34-21-25(b) or any act by a physician which would constitute a violation of Code of Alabama 1975, §34-24-360.

Section 10. The Board of Nursing may initiate disciplinary actions against a certified registered nurse practitioner or a certified nurse midwife for violations of Section 7. The State Board of Medical Examiners may initiate disciplinary actions against a physician for violation of Section 7. Before either board takes such disciplinary action, it shall give the licensee against whom the action is contemplated a notice of the proposed action and an opportunity for a hearing before the respective board. All hearings shall be governed by the Alabama Administrative Procedure Act.

Section 11. No person shall engage in practice as a certified registered nurse practitioner or certified nurse midwife or in any of the acts or functions described in this act and the regulations adopted under this act in this state unless that person is certified

by the Board of Nursing as an advanced practice nurse in a category of certified registered nurse practitioner or certified nurse midwife and is practicing in collaboration with a physician following protocols which have been approved in accordance with this act or has been exempted from the requirement of practicing in collaboration with a physician following protocols as provided in Section 6 of this act.

Section 12. Both the State Board of Medical Examiners and the Board of Nursing in addition to the powers and duties otherwise expressed in this act, may commence and maintain in their own names in any circuit court having jurisdiction of any person within this state who is unlawfully engaging in advanced practice nursing as a certified registered nurse practitioner or a certified nurse midwife action in the nature of quo warranto as provided for in Code of Alabama 1975, §6-6-590, et. seq., to order the person to cease and desist from continuing to engage in these areas of advanced practice nursing within the state of Alabama, and jurisdiction is conferred upon the circuit courts of this state to hear and determine all such cases. The boards may commence and maintain such actions without the filing of bond or security and without the order or direction of a circuit judge. An injunction shall be issued upon proof that the person is now engaged in advanced practice nursing as a certified registered nurse practitioner or a certified nurse midwife in violation of this act without requiring proof of actual damage sustained by any person. In any case of violation of any injunction issued under this section, the court or any judge thereof may summarily try, and punish the offender for contempt of court. Injunctive proceedings as authorized in this section shall be in addition to, and not in lieu of, all penalties and other remedies prescribed by law.

Section 13. Until the State Board of Medical Examiners and the Board of Nursing adopt the rules and regulations necessary to effectuate the provisions of this act, the State Board of Medical Examiners and the Board of Nursing shall waive the requirements of Sections 5 and 6 of this act and shall grant the appropriate certification to any nurse practitioner or nurse midwife who is currently certified or is eligible for certification to be a certified registered nurse practitioner or certified nurse midwife and will continue to engage in practice under the existing rules and regulations. Until the State Board of Medical Examiners and the Board of Nursing adopt the rules and regulations necessary to effectuate the provisions of this act, the State Board of Medical Examiners and the Board of Nursing shall waive the requirements of Sections 5 and 6 of this act and shall grant the appropriate approval to a collaborating physician submitting a request for approval of a collaborative practice agreement. Notwithstanding the provisions of

Section 15, nurse practitioners and nurse midwives are prohibited from prescribing until final rules and regulations are adopted by the State Board of Medical Examiners and the Board of Nursing in accordance with Section 8 of this act.

Section 14. The provisions of this act shall be applied and construed in pari materia with Code of Alabama 1975, §§ 34-19-1 to 34-19-10. Upon final adoption of rules and regulations by the State Board of Medical Examiners and the Board of Nursing as authorized by this act, any inconsistent portions of §§ 34-19-1 to 34-19-10 are superseded.

Section 15. Sections 1, 2, 3, 4, 5, 6, 8 and 13 shall become effective immediately upon passage of this act and approval by the Governor, or upon its otherwise becoming a law. Sections 7, 9, 10, 11 and 12 shall become effective upon final adoption of rules and regulations by the State Board of Medical Examiners and the Board of Nursing as provided in this act, or July 1, 1996, whichever first occurs.

Approved June 26, 1995

Time: 1:52 P.M.

Act No. 95-264 H. 293 – Rep. Boyd

AN ACT

To name the primary education fund of the state the "Education Trust Fund" and to provide for a prospective effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. The name of the "Alabama Special Educational Trust Fund" is changed to the "Education Trust Fund." All references to the "Alabama Special Educational Trust Fund" or the "Alabama Special Education Trust Fund" contained in the Code of Alabama 1975, are changed to the "Education Trust Fund." All other laws, rules, regulations, and legal references of any kind to the "Alabama Special Educational Trust Fund" or the "Alabama Special Education Trust Fund" shall be changed to the "Education Trust Fund when the Code of Alabama 1975 is next reprinted and as other laws, rules, regulations and legal references are appropriate, timely and economically feasible."

Any and all funds for public education which are dedicated to the Alabama Special Educational Trust Fund prior to and on the effective date of this act shall continue to be deposited into the "Education Trust Fund." It is not the intent of this act to redirect

the deposit or expenditure of any funds earmarked for the public schools and colleges, nor is it the intent of this act to create a new fund for public schools or colleges. It is the intent of this act only to rename the primary education trust fund of the state from the "Alabama Special Educational Trust Fund" to the "Education Trust Fund".

Section 2. This act shall become effective on October 1, 1996.

Approved June 26, 1995

Time: 1:55 P.M.

Act No. 95-265 S.J.R. 103 – Senator Smith

SENATE JOINT RESOLUTION

COMMENDING KEEP ALABAMA BEAUTIFUL FOR OUTSTANDING SERVICE TO THIS STATE.

WHEREAS, it is with great pride and pleasure that the Alabama Legislature highly commends the Keep Alabama Beautiful Program whose headquarters are located in Gadsden, Alabama, for outstanding service to the State of Alabama; and

WHEREAS, the Keep America Beautiful, Inc., organization has been recognized nationally; and

WHEREAS, the programs of Keep America Beautiful, Inc., educate the public and change their attitude and behavior towards recycling, litter, and other environmental issues; and

WHEREAS, Keep Alabama Beautiful is the state affiliate of Keep America Beautiful, Inc., representing communities in Choctaw, Etowah, Limestone, Jefferson, Madison, Marshall, Mobile, Montgomery, and Morgan Counties; and

WHEREAS, education of all Alabamians regarding the importance of protecting the environment is an essential step toward insuring a clean environment for future generations; and

WHEREAS, Keep Alabama Beautiful has presented workshops and curricula that are used in approximately 50 percent of the counties in the State of Alabama, reaching tens of thousands of students, teaching young people about proper handling of all types of wastes; and

WHEREAS, the Keep Alabama Beautiful Organization has made significant contributions to address litter problems, open dumps, and beautification projects of the state which have improved the overall quality of life and economic development in

the state; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby express deep appreciation to Keep Alabama Beautiful and all of the affiliated organizations located throughout the state, and do furthermore encourage all state agencies to utilize the programs and expertise of the Keep Alabama Beautiful Organization for whom a copy of this resolution shall be provided.

Approved June 26, 1995

Time: 2:00 P.M.

Act No. 95-266 H.J.R. 255 – Rep. Hammett

HOUSE JOINT RESOLUTION

RELATIVE TO MEETING DAYS.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That when the two houses adjourn Thursday, June 22, 1995, they adjourn to meet again on Tuesday, June 27, 1995, and when they adjourn on Tuesday they adjourn to meet again on Thursday, June 29, 1995.

Approved June 26, 1995

Time: 2:01 P.M.

Act No. 95-267 H.J.R. 285 – Rep. Gipson

HOUSE JOINT RESOLUTION

HONORING WALTER L. NORTHINGTON FOR HIS YEARS OF SERVICE TO THE STATE OF ALABAMA, DEPARTMENT OF EXAMINERS OF PUBLIC ACCOUNTS.

WHEREAS, on the occasion of his retirement, it is with highest commendation that the Alabama Legislature recognizes Walter L. Northington, current Assistant Chief Examiner, for his distinguished career with the Department of Examiners of Public Accounts; and

WHEREAS, Mr. Northington spent 26 years in devoted service to the citizens of Alabama, auditing innumerable county offices, officials, and agencies throughout the state; and

WHEREAS, serving with honor and distinction, Mr.

Northington initiated changes within the Department of Examiners of Public Accounts that aided it in becoming more efficient and responsive to the needs of state and local government; and

WHEREAS, his contributions exerted a profound influence on the State of Alabama, making Mr. Northington a highly respected and recognized leader of our time; and

WHEREAS, through his dedication and years of service, the Prattville Lions Club has been blessed and served well by Walter Northington; and

WHEREAS, a native of Prattville, Alabama, Mr. Northington is the devoted husband of Ella Sue Northington, and the loving father of Wanda, Jane, and Steve Northington, as well as a proud grandfather many times over; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in tribute to his many accomplishments, and in appreciation of his immeasurable contributions to the citizens of this state, Mr. Walter L. Northington is hereby extended the highest commendation for his devoted service.

BE IT FURTHER RESOLVED, That a copy of this resolution of deepest gratitude be prepared for presentation to Mr. Walter L. Northington on the occasion of his retirement.

Approved June 26, 1995

Time: 2:02 P.M.

Act No. 95-268 H.J.R. 291 – Reps. Box, Allen, Baker, Bandy, Black (L), Black (M), Boyd, Burke, Buskey, Carns, Carothers, Carter, Clark (J), Clark (W), Clouse, Collins, Crigler, Curry, Dean, Dolbare, Drake, Dukes, Flowers, Ford, Fuller, Gaines, Galliher, Gaston, Gipson, Graham, Guin, Hall (A), Hall (L), Hamilton, Hammett, Haney, Hawk, Hawkins, Hayden, Hill, Hilliard, Hinshaw, Holmes, Hooper, Houston, Jackson, Johnson (E), Johnson (R),

Jorgensen, Kennedy, Knight (A), Knight (J), Laird, Layson, Letson, Lindsey, Maull, McAdory, McClammy, McDaniel, McKee, McMillan, Melton, Millican, Minnifield, Mitchell, Moore, Morrison, Morrow, Morton, Murphree, Newton (C), Newton (D), Page, Papucci, Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Pringle, Reed, Robinson, Rogers (J), Rogers (M), Sanderford, Sanderson, Seibenhener, Sims, Smith, Spratt, Starkey, Thomas (D), Thomas (J), Townsend, Turner, Turnham, Vance, Venable, Warren, White, Willis, Wren

HOUSE JOINT RESOLUTION

CONGRATULATING REPRESENTATIVE AND MRS. THOMAS E. HOGAN ON THE OCCASION OF THEIR 40TH WEDDING ANNIVERSARY.

WHEREAS, it is with great personal pleasure that the members of the Alabama Legislature extend heartiest congratulations to our friend and distinguished colleague, Representative Thomas E. (Tom) Hogan, and his lovely wife, Jean, on the occasion of their 40th Wedding Anniversary, June 28, 1995; and

WHEREAS, joined in matrimony, June 28, 1955, in Fulton, Mississippi, Tom and Jean Hogan are the parents of two daughters, Susan Y. Boyd of Ocala, Florida, and Donna J. Hogan Scott also of Jasper, and the proud grandparents of two wonderful grandchildren, Timothy P. Byrd of Birmingham, and Jennifer L. Boyd of Ocala, Florida; and

WHEREAS, the Hogans are highly regarded members of the Jasper community, and active and involved members of the Canaan Baptist Church, where Representative Hogan teaches Sunday School, and serves as deacon; he is also active in the charitable work of Beacon House and Daybreak, and often plays bass with his group for community fundraisers; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That on this very special occasion, we hereby most highly commend and congratulate

Representative and Mrs. Tom Hogan on their long and happy marriage, and do further direct that a copy of this resolution be provided with our sincere best wishes for many more years of continued good health and happiness in life.

Approved June 27, 1995

Time: 5:50 P.M.

Act No. 95-269 H.J.R. 278 – Rep. Morrow

HOUSE JOINT RESOLUTION

COMMENDING LEE PAGE OF MARION COUNTY, ALABAMA, FOR EXTRAORDINARY HEROISM.

WHEREAS, it is with highest commendation and honor that the Legislature of Alabama recognizes Lee Page of Marion County, Alabama, for his valiant and courageous efforts in saving the life of another; and

WHEREAS, on July 26, 1994, Lee Page, a highway maintenance supervisor, and co-worker Jimmy Taylor were inspecting damages along Alabama Highway #43 in Marion County following a torrential downpour of 5-1/2 inches of rain; and

WHEREAS, Mr. Taylor, discovering a clogged grate covering a sizable drain responsible for funnelling water under the road, waded into the water chest high and began jabbing at the debris covering the grate; suddenly a sizable chunk broke through, bringing a surge of water which forced Mr. Taylor under, wedging his knees between two bars of the grate; and

WHEREAS, realizing the urgency of the situation, Mr. Page without regard for his own personal safety, rushed into the water and, with the help of two passersby, managed to hold Mr. Taylor's head above water until help arrived; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding bravery, highest commendation is hereby accorded Lee Page of Marion County, Alabama, for whom a copy of this resolution of sincere regard and tribute shall be provided.

Approved June 28, 1995

Time: 11:30 A.M.

Act No. 95-270 H.J.R. 279 – Rep. Morrow

HOUSE JOINT RESOLUTION

COMMENDING THE FRANKLIN COUNTY BOARD OF EDUCATION ON ITS NEW MOBILE HEALTH CLINIC.

WHEREAS, the Franklin County Board of Education has taken yet another positive step toward improving the good and well-being of Franklin County students; and

WHEREAS, the area's first mobile health clinic, and the first of its kind in the state, has been introduced, providing basic and preventive health care services and instruction to the more than 4,600 students in Franklin County; and

WHEREAS, the clinic, which will visit each school at least once a week, is equipped with a wheelchair lift in addition to other equipment and supplies, and is staffed with two nurse practitioners and a clerk/driver; and

WHEREAS, included among the many services provided by the clinic are hearing and visual screenings, vaccinations, immunizations, health education and nutrition evaluations; and

WHEREAS, the project was funded through a substantial grant from the U.S. Department of Health and Human Services and supplemented by sizable amounts of in-kind services provided by the school board and a consortium which included the Northwest Alabama Regional Health Department, the school system, the Department of Human Resources, the University of North Alabama School of Nursing, Red Bay Hospital, Northwest Medical Center, Family Services Center of Riverbend, and several local doctors; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in tribute to their dedicated efforts in instituting this outstanding service for the benefit and welfare of the children of Franklin County and our state, highest commendation is hereby accorded the Franklin County Board of Education, for which a copy of this resolution shall be provided.

Approved June 28, 1995

Time: 11:31 A.M.

Act No. 95-271 H.J.R. 280 – Rep. Morrow

HOUSE JOINT RESOLUTION

COMMENDING TERRY EZZELL OF BELGREEN, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, it is with great pleasure that the Legislature of Alabama extends heartiest congratulations to Terry Ezzell of Belgreen, Alabama, who recently captured first place in the individual standings of the Southeastern Regionals of the Bass Anglers Sportsman's Society (B.A.S.S.) National Federation Tournament; and

WHEREAS, Mr. Ezzell is a member of the 12-man Alabama Federated Bass Team, which is made up of the top eight finishers in the state tournament and the four regional champions; and

WHEREAS, a member of the Belgreen Bass Club, Mr. Ezzell placed fifth in the state and, in the Southern Regionals, reeled in a cumulative total of 11 fish weighing an impressive 32.6 pounds to take the competition and advance to the Nationals to be held in April of 1995; and

WHEREAS, Mr. Ezzell, who holds a degree in forestry management from Auburn University, is an area forester in Franklin County; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, and as winner in the individual standings of the B.A.S.S. Southeastern Regionals, highest commendation is hereby accorded Terry Ezzell of Belgreen, Alabama, for whom a copy of this resolution shall be provided with sincere best wishes for every future success.

Approved June 28, 1995

Time: 11:32 A.M.

Act No. 95-272 H.J.R. 287 – Reps. Ford, Page, Gallihe

HOUSE JOINT RESOLUTION

COMMENDING DR. VICTOR B. FICKER, PRESIDENT OF GADSDEN STATE COMMUNITY COLLEGE.

WHEREAS, Dr. Victor B. Ficker, president of Gadsden Stat Community College in Gadsden, Alabama, was a recent recipien

of Phi Theta Kappa's Dr. Shirley B. Gordon Award of Distinction for 1995, and was selected for the Kermit Mathison Award to be presented by the University of Montevallo on August 3, 1995, only two of many honors of distinction bestowed on Dr. Ficker through the years; and

WHEREAS, an outstanding educator and leader in the field of education over some 32 years, and, most particularly, at Gadsden State Community College since 1988, Dr. Ficker has received such other professional honors as Executive of the Year, Alabama Distinguished Administrator of the Year, Outstanding Community Leader of Gadsden, and was recipient of the NEA National H. Trenholm Memorial Award, among others; and

WHEREAS, a native of Brookfield, Illinois, and a graduate of St. Petersburg, Jr. College, Dr. Ficker earned BAE, MED, EDS, and EDD degrees from the University of Florida, and completed post doctoral studies at the University of Virginia; and

WHEREAS, he served successively as adjunct professor at the University of Virginia and as Director of Corporate Training at Northern Virginia Community College in the years immediately prior to assuming the presidency at Gadsden State, and earlier in varied capacities at Paul D. Schreiber High School, the University of Florida, Polk Community College, Paul D. Camp Community College, Old Dominion University, and Mountain Empire Community College; and

WHEREAS, over the years, in addition to career responsibilities, Dr. Ficker has authored and co-authored a number of publications and articles, and provided leadership to numerous professional programs, committees, organizations and endeavors; and

WHEREAS, as president of Gadsden State, Dr. Ficker has instituted numerous progressive programs, services, and activities which have not only significantly impacted the college, but the community as well; and

WHEREAS, he has further provided leadership and support to a number of civic and service organizations within the community, including the Gadsden-Etowah Chamber of Commerce, Gadsden Industrial Development Authority, Gadsden United Way, and Baptist Health Services Foundation, among others; and

WHEREAS, Dr. Ficker has indeed served with distinction as president of Gadsden State Community College, leading the school to unprecedented new heights of achievement, and it is with deep gratitude that we commend his contributions and service; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding professional achievement and service to Gadsden State Community College and higher education in our state, we hereby express appreciation to Dr. Victor B. Ficker, whom we hold in highest personal regard, and to whom a copy of this resolution shall be presented at the next meeting of the State Board of Education, scheduled for July 11, 1995.

Approved June 28, 1995

Time: 11:33 A.M.

Act No. 95-273 H.J.R. 293 – Rep. Johnson (E)

HOUSE JOINT RESOLUTION

HONORING REVEREND D. R. SCARBER FOR MANY YEARS OF OUTSTANDING SERVICE.

WHEREAS, the Alabama Legislature notes with great pride and pleasure the outstanding service of Reverend D. R. Scarber on the occasion of his 35th anniversary as pastor of Twenty-Fifth Avenue Baptist Church; and

WHEREAS, Reverend Scarber has served with honor and distinction as a leader of the church and the community with service to the Birmingham Public School System for 25 years, the shoe repair business for several years, and the State of Alabama Placement System before retiring in 1992; and

WHEREAS, Reverend Scarber furthermore worked with the State Board of Education for 13 years, where he served with diligence as the personal public assistant of former Governor George Wallace; and

WHEREAS, Reverend Scarber has nurtured 16 ministers during his pastoral service at Twenty-Fifth Avenue Baptist Church, and produced several successful gospel songs; and

WHEREAS, on July 9, 1995, at 11:00 a.m., family and friends will gather at a celebration ceremony honoring Reverend Scarber and his 35 years of tremendous devotion and service; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and warmest congratulations to Reverend D. R. Scarber of Twenty-Fifth Avenue Baptist Church, in honor of 35 years of outstanding service as pastor, and do

furthermore direct that a copy of this resolution be provided with best wishes for every future happiness and success.

Approved June 28, 1995

Time: 11:35 A.M.

Act No. 95-274 S. 476 – Senator Smith

AN ACT

Relating to the Etowah County Commission; establishing and defining boundaries of the single-member district county governing body, pursuant to the Joint Remedy Proposal, in the court order dated January 30, 1995, and related orders, in Civil Action No. 89-T-459-E in the United States District Court for the Middle District of Alabama, Eastern Division, in the case of Presley et al v. Etowah County Commission; relating to budgetary and expenditure matters for roads and bridges; relating to duties of the commissioners and the county road supervisor; providing for the chair of the commission; and providing that commissioners shall be on a part-time status; providing for the compensation and expenses of the commissioners; and repealing conflicting laws.

Be It Enacted by the Legislature of Alabama:

Section 1. The intent of this act is to implement, by local act for Etowah County, the Joint Remedy Proposal in the court order dated January 30, 1995, and related orders, in Civil Action No. 89-T-459-E, in the United States District Court for the Middle District of Alabama, Eastern Division in the case of Presley, et al v. Etowah County Commission.

Section 2. There is created and established in and for Etowah County, a single-member district governing body, which shall replace the existing governing body to the extent there is a conflict with existing laws relating to Etowah County. The Etowah County Commission shall be composed of six members, elected from single-member districts one through six inclusive, which districts are described in the Joint Remedy Proposal made a part of the court order dated January 30, 1995, and related orders, in Civil Action No. 89-T-459-E in the United States District Court for the Middle District of Alabama, Eastern Division, in the case of Presley et al v. Etowah County Commission.

Section 3. This section shall apply to commissioners elected at the 1996 election and thereafter. The members of the county commission shall be part-time and the salary shall be fifteen thousand dollars ($15,000) annually, payable in equal installments in the same manner as county employees are paid. No commissioner shall be entitled to retirement benefits except that any current member of the county commission who is contributing to the retirement plan may, upon qualifying, be paid his or her pro rata share

of retirement benefits. The members of the county commission shall not receive an expense allowance, but shall receive reimbursement of vouchered actual mileage and travel expenses in the performance of required duties as commissioner. Each commissioner may, at the option of the commissioner, participate in the health insurance coverage of Etowah County provided the commissioner pays the costs to the county for the health insurance coverage.

Section 4. Each commissioner shall reside in the district that he or she represents at the time of qualifying for office and during his or her tenure. The chair of the commission shall continue to rotate in the manner the chair of the commission is rotating at the current time selected annually by lot.

Section 5. A commissioner elected from a district prior to the effective date of this act and having a road and bridge shop shall continue to exercise supervision and control over the road shop and the road and bridge operations presently under the control of that commissioner until the election of a successor. Until the elected commissioners assume office after the 1996 election, commissioners from districts one and four shall provide road services to district five and six, without discrimination, provided that the costs of the supplies are paid from the funds allocated to the use of commissioner for district five and district six, respectively.

(2) After the November 1996 elections with respect to commissioners from district two and three, and after the November 1998 elections with respect to commissioners from district one and four, no commissioner shall exercise the supervision of road shops, personnel, or work projects. The county road supervisor shall exercise the administration, supervision, and direct the day-to-day duties of the personnel in the road work of all the districts.

Section 6. (a) The county road supervisor shall be a full-time unclassified employee of Etowah County appointed by the commission. The duties of the county road supervisor shall be assigned by the commission. No sitting commissioner may serve as the county road supervisor and no person related by blood or marriage to a sitting commissioner shall be eligible to serve as the county road supervisor.

(b) The county commission shall continue to insure that the county road operations and the county road supervisor remain within the annual budget adopted by the county commission.

(c) The county engineering department shall be subject to the control of the county commission.

Section 6. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 7. All laws or parts of laws which conflict with this act or conflict with the Joint Remedy Proposal made a part of the court order dated January 30, 1995, and related orders, in Civil Action No. 89-T-459-E in the United States District Court for the Middle District of Alabama, Eastern Division, in the case of Presley et al v. Etowah County Commission, are repealed.

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on June 29, 1995 without approval by the Governor.

Act No. 95-275 S. 248 – Senator Bedford

AN ACT

To amend Sections 22-13-4 and 22-13-5, Code of Alabama 1975; to provide for the reporting of each confirmed case of cancer to the State Health Officer and to establish the Alabama Statewide Cancer Registry; and to repeal Sections 22-13-2 and 22-13-6 to 22-13-11, inclusive, Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be known and may be cited as the "Alabama Statewide Cancer Registry Act."

Section 2. (a) There is hereby established within the Department of Public Health the Alabama Statewide Cancer Registry for the purpose of providing accurate and up-to-date information about cancer in Alabama and facilitating the evaluation and improvement of cancer prevention, screening, diagnosis, therapy, rehabilitation, and community care activities for the citizens of Alabama. The State Committee of Public Health shall adopt rules necessary to effect the purposes of this act, including the data to be reported, and the effective date after which reporting shall be required. For the purposes of this act, cancer means all malignant neoplasms, regardless of the tissue of origin, including malignant lymphoma, Hodgkin's disease, and leukemia, but excluding localized basal cell and squamous cell carcinoma of the skin and carcinoma in situ of the cervix.

(b) All cases of confirmed cancer diagnosed or treated in the state are to be reported to the State Health Department. For the purposes of this act, confirmed cancer means the best evidence available for determining the nature of malignant neoplasms.

(c) The State Health Officer shall establish a training program to include instruction on the manner in which data are to be reported and shall be available to personnel of participating health care facilities. A quality control program for cancer data shall be instituted to ensure the quality of data submitted.

Section 3. (a) Each case of confirmed cancer shall be reported within 180 days of admission or diagnosis in the manner prescribed by rule. Reports are to be submitted on a monthly basis.

(b) Any further demographic, diagnostic, treatment, or follow-up information shall be provided upon request by the State Health Officer concerning any person now or formerly receiving services, or diagnosed as having or having had a malignant neoplasm. The State Health Officer or his or her authorized representative shall be permitted access to all records, including death certificates, which would identify confirmed cases of cancer or would establish characteristics of the cancer, treatment of the cancer, or medical status of any identified cancer patient.

Section 4. (a) All information reported pursuant to this act shall be confidential and privileged.

(b) The State Health Officer shall take strict measures to ensure that all identifying information is kept confidential, except as otherwise provided in this act.

(c) Cancer related information may be provided to researchers or research institutions, or both, in connection with cancer morbidity and mortality studies upon appropriate review by the State Health Officer. All identifying information regarding an individual patient, health care provider, or health care facility contained in records of interviews, written reports, and statements procured by the State Health Officer or by any other person, agency, or organization acting jointly with the State Health Officer in connection with these studies shall be confidential and privileged and shall be used solely for the purposes of the study. Nothing in this act shall prevent the State Health Officer from publishing statistical compilations relating to morbidity and mortality studies which do not identify individual cases or sources of information.

(d) Information collected under this act is not subject to disclosure under Section 36-12-40, Code of Alabama 1975.

Section 5. (a) The State Health Officer may enter into agreements to exchange confidential information with other cancer registries to obtain complete reports of Alabama residents diagnosed or treated in other states and to provide information to other states regarding their residents diagnosed or treated in Alabama.

(b) The State Health Officer may furnish confidential information to other states' cancer registries, federal cancer control agencies, or health researchers in order to collaborate in a national cancer registry or to collaborate in cancer control and prevention research studies.

Section 6. (a) No person shall have any claim or cause of action against the State of Alabama, or its political subdivisions, or any individual arising out of any acts or omissions which occurred under the provisions of this act, if the state, political subdivisions, or individual is in compliance with this act.

(b) No person shall have any claim or cause of action against any person, or the employer or employee of any person, who participates in good faith in the reporting or receiving, or both, of cancer registry data or data for cancer morbidity or mortality studies in accordance with this act.

(c) No license of a health care facility or health care provider may be denied, suspended, or revoked for the good faith disclosure of confidential or privileged information in the reporting of cancer registry data or data for cancer morbidity or mortality studies in accordance with this act.

(d) No license of a health care facility or health care provider may be denied, suspended, or revoked for the failure to disclose, confidential or privileged information in the reporting of cancer registry data or data for cancer morbidity or mortality studies.

(e) Nothing in this act shall be construed to apply to the unauthorized disclosure of confidential or privileged information when that disclosure is due to gross negligence or wanton or willful misconduct.

Section 7. Sections 22-13-4 and 22-13-5, Code of Alabama 1975, are amended to read as follows:

"§22-13-4.

"The board shall conduct an educational campaign relative to the importance of the early diagnosis of cancer. The State Health Officer shall publish an annual statistical report reviewing accomplishments under this chapter. The campaign shall be conducted through the churches, the schools, and civic organizations, the print and electronic media platform speaking, and any other available means of publicity."

"§22-13-5.

"The state board of health may, in its discretion, provide for such an annual program for the early diagnosis of cancer for residents of this state as, in its judgment, is practicable."

Section 8. Sections 22-13-2, and 22-13-6 to 22-13-11, inclusive, Code of Alabama 1975, are repealed.

Section 9. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on June 29, 1995 without approval by the Governor.

Act No. 95-276 S. 434 – Senator Ghee

AN ACT

To amend Sections 22-18-1, 22-18-3 to 22-18-6, inclusive, Code of Alabama 1975, to conform to the Administrative Procedure Act rulemaking procedures with respect to emergency medical services; to reduce the licensure period for emergency medical technicians and ambulance drivers from three to two years, and to reduce the fee for such licenses from $15.00 to $10.00; to clarify language in existing code provisions relating to licensure of emergency medical technicians, ambulance operators, and ambulance drivers; to alter and expand the membership of the existing state emergency medical services advisory board, and to alter and clarify certain of its procedures; to eliminate current criminal penalties for violations of emergency medical services laws and to substitute new more specific provisions; to provide for the revocation of licenses for ambulance drivers, emergency medical technicians, and ambulance operators, to establish the specific grounds leading to adverse licensure action, and to conform such licensure procedures to the Alabama Administrative Procedure Act; to provide for the use of advanced life support procedures by emergency medical technicians and to permit properly staffed emergency vehicles to be equipped with drugs, fluids, and advanced life support equipment; to establish a state emergency medical control committee to advise the board of health; to clarify that the board of health, in fulfilling its responsibilities under the act, must in all cases conform its activities to the Administrative Procedure Act; to clarify that fire suppression activities and non-transport basic life support emergency medical services response of volunteer fire departments shall not be regulated by the board of health; and for other purposes.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 22-18-1, 22-18-3, 22-18-4, 22-18-5, and 22-18-6, Code of Alabama 1975, are amended to read as follows:

"§22-18-1.

"For the purposes of this chapter, the following terms shall have the meanings respectively ascribed to them by this section:

"(1) GROUND AMBULANCE. A motor vehicle including a convalescent ambulance that is intended to be used for and is maintained or operated for transportation to a medical care facility of persons who are sick or injured.

"(2) AMBULANCE SERVICE OPERATOR. Any person, firm or corporation engaged in the business of operating a ground ambulance or convalescent ambulance.

"(3) LICENSED AMBULANCE DRIVER. Any individual who successfully completes the course of instruction for emergency vehicle operation prescribed by the board of health, and who has been granted a current, valid license by the board of health.

"(4) LICENSED EMERGENCY MEDICAL TECHNICIAN-BASIC. Any person 18 years of age or older who has successfully completed the basic emergency medical technician course of instruction, or its equivalent, as approved by the board of health, and passed the state EMT-basic examination, and who has been granted a current, valid license by the board of health.

"(5) LICENSED EMERGENCY MEDICAL TECHNICIAN-INTERMEDIATE. Any person 18 years of age or older who has successfully completed the intermediate emergency medical technician course of instruction, or its equivalent, as approved by the board of health, and passed the state EMT-intermediate examination, as well as having met the requirements of for becoming a licensed emergency medical technician-basic, and who has been granted a current, valid license by the board of health.

"(6) LICENSED EMERGENCY MEDICAL TECHNICIAN-PARAMEDIC. Any person 18 years of age or older who has successfully completed the EMT-paramedic course of instruction, or its equivalent, as approved by the board of health, and passed the state EMT-paramedic examination, as well as having met the requirements of for becoming a licensed emergency medical technician-intermediate, and who has been granted a current, valid license by the board of health.

"(7) ADVANCED LIFE SUPPORT. The treatment of potentially life-threatening medical emergencies through the use of invasive medical techniques specified as advanced life support techniques by the board of health, which ordinarily would be performed or provided by licensed physicians, but which may be performed by emergency medical technicians during emergencies under constraints specified by rule of the board.

"(8) BOARD or BOARD OF HEALTH. The State Board of Health.

"(9) PATIENT. An individual who receives or requests medical care, or for whom medical care is requested, because the individual is sick or injured.

"(10) PHYSICIAN. An individual licensed to practice medicine by the Medical Licensure Commission of Alabama.

"(11) CONVALESCENT AMBULANCE. A vehicle that is intended to be used for and is maintained or operated for making non-emergency calls for patients in a recumbent position who require transportation to or from a physician's office, hospital, other health care facility, or residence, provided a convalescent ambulance shall not include a hospital operated vehicle used exclusively for intra hospital facility transfers."

"§22-18-3.

"(a) In the manner provided in this section, the state board of health, with advice and recommendation of the advisory board, shall establish and publish reasonable rules and regulations for the training, qualification, scope of privilege, and licensing of ambulance drivers, emergency medical technicians, and ambulance service operators and for the operation, design, equipment and licensing of ambulances and convalescent ambulances. In adopting rules and regulations, the board of health shall follow the provisions of the Alabama Administrative Procedure Act, provided, that the board shall, in all cases, hold one or more public hearings prior to adoption, amendment, or rescission of any rule or regulation. All hearings shall be joint hearings set by the board of health and the advisory board established in section 22-18-5. At such hearing, any interested person, firm or corporation or any member of the public may be heard. Any person, firm or corporation affected by any regulation, amendment or rescission hereof may appeal consideration thereof to the circuit court of Montgomery county pursuant to the provisions of the Administrative Procedure Act.

"(b) Regulations adopted under this section shall become effective as provided in the Administrative Procedure Act. From any judgment of the circuit court in any case appealed to it, an appeal shall be made pursuant to the Administrative Procedure Act."

"§22-18-4.

"(a) In addition to all other licenses or fees now payable, the board of health shall, as prerequisite for issuing a license under the provisions of this chapter and rules and regulations promulgated pursuant thereto, charge a fee of $10.00 for each license valid for a period of 24 months issued to an ambulance driver, emergency medical technician (EMT)-basic, EMT intermediate or EMT paramedic, a fee of $25.00 for each license issued to a ground ambulance service operator, and a fee of $25.00 for each license issued to a convalescent service ambulance operator. Licenses in effect on the date this act becomes law shall remain in effect until the expiration date set forth thereon. Each license issued to an ambulance service operator shall be valid for a period not to exceed 12 calendar months. The same fee shall be charged for renewal of

a license as is fixed in this subsection for the original license. No additional fee shall be collected when an EMT becomes eligible for reclassification of his or her license to a higher level. All fees collected under this chapter shall be retained in a separate fund by the board of health for the purpose of enforcing this chapter and shall be disbursed as other funds of the state are disbursed; provided, that no fee or permit charge authorized under this chapter shall be charged or collected for the issuing of a permit to a volunteer rescue squad, as defined in section 32-11-1, for providing ambulance service on a gratuitous basis, or any member who volunteers his service, unless licensure is requested by the squad, company or individual, whereupon, with the exception of the issuance of a license for the EMT reclassifications, a fee will be charged. An EMT may hold a dual license as an ambulance driver and an EMT at any level for which he or she is eligible for licensure, and there shall be no license fee imposed other than that imposed for an EMT license.

"(b) Any person desiring licensure as an EMT shall complete an approved EMT course, successfully pass the appropriate level licensure examination as determined by the board of health, and submit an application to the board. An approved EMT course for any level shall be a course conforming to the curriculum for that level approved by the United States Department of Transportation, or approved by any other federal agency as may, in the future, take jurisdiction over EMT training curriculum development. A curriculum may be required to be supplemented with additional modules if:

"(1) The modules are optional modules approved by the United States Department of Transportation, or its successor as specified above, and the optional modules are prescribed by rule by the board pursuant to the Alabama Administrative Procedure Act.

"(2) The modules, though not included in the federally approved curriculum for a particular level of training, have been required in Alabama for emergency medical technician training at that level on or before January 1, 1995.

"(3) The modules are necessary to train EMTs in the use of new procedures, devices, techniques, or drugs which may be approved by the board for use by EMTs.

"(c) No ground ambulance and no convalescent ambulance shall be operated for ambulance purposes and no individual shall drive, operate, attend or permit same to be operated for the purpose of transporting a patient from any point within the state of Alabama to any other point within the state of Alabama unless such ambulance or convalescent ambulance is duly licensed by the

board of health and unless it shall be under the immediate supervision and direction of a person who is holding a currently valid license as an emergency medical technician or as a physician. The board of health may prescribe exceptions to this requirement consistent with the interests of public health. Any ground ambulance or convalescent ambulance shall at all times be driven by a person holding a current, valid license as an ambulance driver."

"§22-18-5.

"(a) There shall be an advisory board of 25 members to assist in the establishment of rules, regulations and standards necessary to carry out the provisions of this chapter. The board shall meet at least once each year and at the call of the state health officer. The state health officer shall be an ex officio member of the advisory board. The advisory board shall elect one from its membership to serve as chair for a two-year term. The chair shall not serve consecutive terms.

"(b) Composition of the advisory board shall be:

"(1) One member designated by the Alabama Ambulance Association.

"(2) One member designated by the Alabama Association of Rescue Squads.

"(3) One member designated by the Alabama Hospital Association.

"(4) One member designated by the state committee on trauma, American College of Surgeons.

"(5) One member designated by the Medical Association of the state of Alabama.

"(6) One member designated by the Director of Public Safety.

"(7) One member designated by the Director of the State Department of Transportation.

"(8) One member designated by the Department of Economic and Community Affairs, Highway Traffic and Safety Program.

"(9) State health officer, as ex officio member with voting privileges.

"(10) One member who shall be a paramedic firefighter designated by the Professional Firefighters Association of Alabama.

"(11) One member who shall be an EMT firefighter designated by the Alabama Association of Volunteer Fire Departments.

"(12) One member designated by the Alabama Association of Fire Chiefs.

"(13) Two members designated by the Alabama Council on EMS to represent the designated regional EMS agencies.

"(14) One member designated by the State Committee of Public Health.

"(15) One member designated by the Alabama Chapter of the American College of Emergency Physicians.

"(16) One member designated by the Alabama Chapter of the American Academy of Pediatrics.

"(17) One member from a state approved paramedic training school designated by the Alabama Emergency Medical Services Education Committee.

"(18) One member who shall be an EMT designated by the professional EMT association if a professional EMT association is designated by the board of health or pursuant to other procedure established by law.

"(19) One member designated by the Alabama Chapter of the Emergency Nurses Association.

"(20) One member designated by the Alabama League of Municipalities.

"(21) One member designated by the Association of County Commissions of Alabama.

"(22) One member designated by the Alabama Emergency Management Council.

"(23) One member designated by the Alabama State Nurses' Association.

"(24) One member designated by the Alabama Firefighters Association.

"(25) One member designated by the Alabama Society of Hospital Pharmacists.

"(c) Each representative shall serve for a period of four years or until his successor is appointed, whichever is sooner.

"(d) Each ex officio member's term will be indefinite. In the case of vacancy, the new appointee shall serve for the remainder of the unexpired term. Any vacancy shall be filled by the original organization selecting said member. Members of the advisory board shall serve without compensation but shall be entitled to

reimbursement for expenses incurred in the performance of the duties of their office as provided in article 2 of chapter 7 of Title 36 of this Code.

"(e) With the consent of the majority of the members of the advisory board, the chair shall set requirements for proxy representation, voting, and the establishment of a quorum."

"§22-18-6.

"(a) It shall be a Class A misdemeanor for any person, firm, company, corporation, organization, facility, or agency to do any of the following:

"(1) Deliberately hinder, obstruct, or interfere with an officer, inspector, or duly authorized agent of the board while in the performance of official duties.

"(2) Deliberately hinder, obstruct, or interfere with any physician, licensed nurse, licensed emergency personnel, or emergency personnel exempt from licensure under the provisions of this chapter while that person is providing emergency care to a third person or while that person is assisting at the scene of an emergency, directing traffic at the scene of an emergency, or managing or helping to manage the scene of an emergency.

"(3) Violate subsections (c) or (d) of this section.

"(4) Offer, provide, or perform, without a valid, current license or certificate to do so, an emergency medical service or other function which, under the provisions of this chapter or the rules adopted pursuant thereto, may not be performed without a license or certificate issued by the board of health. No person shall be subject to criminal liability pursuant to this section in the event he or she renders first aid or emergency care at the scene of an injury caused by a motor vehicle crash or by some other incident, or at the scene of a mass casualty or disaster if:

"a. The first aid or emergency care is rendered gratuitously and in good faith; and

"b. The first aid or emergency care is not rendered in the course of a business, program, or system which regularly engages in the provision of emergency medical care.

"(b) Nothing in this subsection shall be construed to repeal, abridge, or modify Section 6-5-332, Code of Alabama 1975, or any other good Samaritan statute.

"(c) No person shall regularly engage in providing emergency medical care at the scene of emergencies unless he or she is a

licensed emergency medical technician as defined in this chapter, or unless he or she is exempted from licensure pursuant to the provisions of this chapter. Notwithstanding the foregoing, nothing in this chapter shall be construed to prohibit any physician or nurse licensed in Alabama from performing any act within his or her scope of practice. No person shall hold himself or herself out to be an emergency medical technician unless he or she is a licensed emergency medical technician as defined in this chapter. Provided, that emergency medical technicians licensed in other jurisdictions may identify themselves as holding such licensure.

"(d) The board shall by rule establish the scope of privilege for each level of emergency medical technician licensure. No person shall exceed the scope of privilege granted to his or her level of licensure.

"(e) Control of an emergency scene may be taken by an emergency medical technician or other emergency personnel if the personnel arrive at the scene of an emergency prior to the arrival of law enforcement personnel, and if managing the emergency scene will not interfere with other emergency medical care duties. Emergency scene control shall include the authority to direct traffic. A driver of a motor vehicle entering an emergency scene or entering a roadway adjacent to an emergency scene shall use caution, shall maintain proper control of the motor vehicle, and shall obey the directions of law enforcement personnel and emergency personnel at the scene. Any person violating this subsection shall be guilty of a violation.

"(f) The board may, following the contested case provisions of the Administrative Procedure Act, suspend or revoke the license or certificate of an ambulance driver, an emergency medical technician at any level, or an ambulance service operator, or it may refuse to grant a license or certificate to any person or entity at any time that any of the following is determined with respect to the holder or applicant:

"(1) Does not meet or no longer meets the prescribed qualifications.

"(2) Is guilty of misconduct as defined by the board's rules or otherwise commits a violation of this act or any rules promulgated thereunder.

"(3) Has failed to maintain the required level of continuing education units or any equivalent therefor defined in the board's rules.

"(4) Has provided care to a patient or patients under his or her care which falls short of the standard of care which ordinarily

would be expected to be provided by similarly situated EMS personnel in Alabama, and has thereby jeopardized the life, health, or safety of a patient or patients.

"(5) Has sexually or physically abused a patient under his or her care.

"(6) Has submitted a license or test application, a report of continuing education requirements, a run report, a patient care record, EMT student record, clinical rotation record, intent to train form, self-study document, fluid and drug application, physician medication order form, or any other document which is material to the duties and qualifications of EMS personnel or those of a student in an EMT training program and which is fraudulent or knowingly false in any respect.

"(7) Has committed fraud in the performance of his or her duties or in connection with any matter related to emergency medical services.

"(8) Has been convicted of a crime involving moral turpitude, or a crime in which the victim is an EMS provider organization or an EMS patient, unless the board determines that the fact of the conviction would not be likely to interfere with the performance of EMS duties.

"(9) Has performed any act requiring licensure or certification under state EMS statutes, without possession of the requisite licensure or certification.

"(10) Has performed any act which exceeds the scope of license or privilege granted to the holder."

Section 2. Sections 22-18-2 and 22-18-7, Code of Alabama 1975, are not amended nor shall they in any way be affected by this act, nor by any rule, regulation, or other law now in existence, and all of their provisions shall remain in full force and effect.

Section 3. The board shall be assisted in formulating rules and policy pertaining to emergency medical services by the State Emergency Medical Control Committee (SEMCC). Members of the SEMCC shall serve without compensation but shall be entitled to reimbursement for expenses incurred in the performance of the duties of their office at the same rate paid state employees. The chair of SEMCC may establish subcommittees of SEMCC comprised of representatives from ambulance, fire, rescue, and other EMS groups, as needed. The SEMCC shall be composed as follows:

(1) The medical directors of each regional EMS agency designated by the board.

(2) One member who shall be appointed by the Alabama Chapter of the American College of Emergency Physicians.

(3) One member who shall be appointed by the state committee on trauma of the American College of Surgeons.

(4) One member who shall be appointed by the Alabama Chapter of the American Academy of Pediatrics.

(5) The state EMS medical director, who shall serve as its chair.

(6) The state trauma consultant if a physician is designated as such by the board of health or pursuant to other procedure established by law.

Section 4. (a) The board may by rule designate certain procedures as "advanced life support techniques," which may be performed by EMTs during emergencies, such as situations where the life, health, or safety of a prehospital patient is in immediate jeopardy. The board may prescribe by rule the qualifications and certification necessary for personnel performing advanced life support techniques, and the specific conditions under which the techniques may be performed by emergency medical technicians. Notwithstanding any statutory provision to the contrary, emergency medical services personnel who possess the necessary qualifications and certification prescribed by the board shall not be deemed to have engaged in the unlawful practice of medicine when performing advanced life support techniques in accordance with the constraints established by the board.

(b) Emergency vehicles manned by licensed emergency medical technicians who are trained to provide advanced life support and who possess current board licensure, may carry a drug kit containing limited quantities of drugs, including controlled substances, which have been approved by the board for administration to patients during the regular course of duties of prehospital personnel, provided, that these drugs may be administered only pursuant to the order of a physician who possesses a valid license to practice medicine within this state, and who is, at the time the order is given, functioning in accordance with the applicable regional medical control plan approved by the board. Fluids and drugs may not be carried by any ambulance service operator or other emergency medical services provider without a certificate of fluid and drug authorization from the board. The board may offer a certificate of fluid and drug authorization to a non-transport service which is not licensed if the unlicensed non-transport service meets all requirements in the board's rules for issuance of a certificate to a licensed ambulance operator.

(c) Emergency medical technicians may not perform services pursuant to standing orders from physicians without prior approval of the board. Emergency medical technicians may accept orders to perform advanced life support techniques only from medical control physicians who have completed medical control training prescribed by the board on the recommendation of the SEMCC and the state health officer.

Section 5. This act shall govern and it shall authorize the board of health to regulate only emergency medical care provided outside of hospitals, emergency medical technicians who provide care outside of hospitals, ambulance drivers, ambulance service operators, ground ambulances, convalescent ambulances, the training of ambulance drivers and emergency medical technicians who provide care outside of hospitals, and orders given for emergency medical care to be provided outside of hospitals. To the extent medical care and nursing care provided within hospitals is governed by other provisions of law, these provisions of law shall not be construed to have been repealed, amended, abridged, or otherwise altered by this act.

Section 6. In carrying out its duties and responsibilities under this act, the board shall follow the Administrative Procedure Act.

Section 7. Neither the provisions of this act nor rules of the board adopted thereunder shall apply to volunteer fire departments which are not regularly engaged in the provision of emergency medical care and which offer only Basic Life Support response and do not transport. Volunteer fire departments which regularly provide emergency medical care shall be subject to this act, except when entitled to an exemption pursuant to Section 22-18-2 of the Code of Alabama 1975. Provided, however, that this act and regulations adopted thereunder shall govern only the EMS functions of volunteer fire departments and shall not apply to their firefighting functions or other functions. A volunteer fire department shall have in place a system for the emergency treatment or transport of motor vehicle crash victims, or other trauma victims or emergency patients to be deemed to be regularly engaged in the provision of emergency medical care. A volunteer fire department which merely offers cardiopulmonary resuscitation and other first aid and rescue in the course of firefighting and related operations shall not be deemed for that reason alone to be regularly engaged in the provision of emergency medical care.

Section 8. All laws or parts of laws which conflict with this act are repealed.

Section 9. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 10. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 29, 1995

Time: 1:30 P.M.

Act No. 95-277 S. 114 – Senator Lindsey

AN ACT

To amend Section 34-24-310, Code of Alabama 1975, to provide that within 30 days following October 1, 1995, the Governor shall appoint one additional public member to the Medical Licensure Commission for a term of five years; to provide that there shall be no limitation on the number of terms a public member may serve and to provide that the public member shall continue to serve beyond the expiration of his or her term until a successor has been appointed; to provide that no public member shall be a licensee of the commission or hold a professional degree in any health care field or practice as a licensed health care professional; and to provide that the public member shall be entitled to participate and vote in all matters before the commission.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 34-24-310, Code of Alabama 1975, is amended to read as follows:

"§34-24-310.

"(a) There is hereby created a commission to be known as the medical licensure commission composed of seven physicians, each of whom shall be either a doctor of medicine or a doctor of osteopathy and be licensed to practice medicine or osteopathy in this state. The members of the commission shall be appointed as follows: two physicians shall be appointed by the lieutenant governor; two physicians shall be appointed by the speaker of the house of representatives; and the remaining three physicians shall be appointed by the governor. The members shall serve a five year term with no limit as to the number of terms a member can serve. In order to stagger the terms, the initial appointment shall be as follows: The two members appointed by the lieutenant governor shall serve a five year term, the two members appointed by the speaker shall serve a four year term, one member appointed by the governor shall serve a three year term, one member appointed by the governor shall serve a two year term, and one member appointed by the governor shall serve a one year term.

"(b) Within 30 days following October 1, 1995, the Governor shall appoint one public member to the commission for an initial term of five years and thereafter shall appoint successor public members to serve terms of five years. There shall be no limitation upon the number of terms a public member may serve. The public member shall continue to serve beyond the expiration of his or her current term until a successor has been appointed. No public member shall be a licensee of the commission or hold a professional degree in any health care field or practice as a licensed health care professional. The public member shall be entitled to participate and vote in all matters before the commission."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 29, 1995

Time: 1:35 P.M.

Act No. 95-278 H. 117 – Reps. Holmes, Box

AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Polygraph Examiners Board with certain modifications; to amend Section 34-25-5, Code of Alabama 1975, so as to provide compensation for advisory consultants.

Be It Enacted by the Legislature of Alabama:

Section 1. Pursuant to the Alabama Sunset Law, the Sunset Committee recommends the continuance of the Polygraph Examiners Board, with the additional recommendation for statutory change of the board as set out in Section 3 of this act.

Section 2. The existence and functioning of the Polygraph Examiners Board, created and functioning pursuant to Sections 34-25-1 to 34-25-36, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. Section 34-25-5 of the Code of Alabama 1975, is amended to read as follows:

"§34-25-5.

"(a) The board shall issue regulations and forms consistent with this chapter for the administration and enforcement of this chapter.

"(b) An order or a certified copy thereof, over board seal and purporting to be signed by the board members, shall be prima facie

proof that the signatures are the genuine signatures of the board members and that the board members are fully qualified to act.

"(c) On April 11, 1989, all moneys and appropriations credited to the Board of Polygraph Examiners under the provisions of Article 4 of Chapter 4, Title 41, shall be transferred by the State Treasurer to the charge and custody of the Board of Polygraph Examiners of the Alabama Department of Public Safety; and the board shall administer the fund as provided by law. The fund is hereby officially known as the Board of Polygraph Examiners Fund.

"All fees collected under this chapter shall be paid to the Board of Polygraph Examiners Fund for the purpose of administering and enforcing this chapter and shall be deposited in the fund.

"Warrants shall be issued by the Department of Finance, Office of the State Comptroller, for board expenses and operation provided that no funds shall be withdrawn except as budgeted and allotted according to Article 4 of Chapter 4 of Title 41 and only in the amounts as stipulated in the general appropriations bill.

"(d) Board members and advisory consultants shall be paid one hundred dollars ($100) per day plus mileage for attendance at regular or special board meetings, only for the actual days of meeting. The board may approve the payment for a board member when authorized by the board to perform certain other duties of the board when not in formal, regular, or special session.

"(e) Employees shall be paid the same mileage expenses and travel allowance as provided for regular state employees.

"(f) The board may determine all resources necessary for the operation of the board. Purchasing shall be in accordance with the state bid law.

"(g) The board shall be exempt from payment of state sales tax."

Section 4. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1, 2, and 3 of this act.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this act are repealed.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 29, 1995

Time: 1:36 P.M.

Act No. 95-279 H. 115 – Reps. Hogan, Box

AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the State Board of Occupational Therapy with certain modifications; to amend Sections 34-39-3, 34-39-5, 34-39-7, 34-39-8, and 34-39-10, Code of Alabama 1975, so as to provide for the referral by any licensed physician or dentist; to remove those provisions permitting certain short-term unlicensed practice in the state; to provide for the registration of occupational therapy practitioners; and to provide further for license requirements.

Be It Enacted by the Legislature of Alabama:

Section 1. Pursuant to the Alabama Sunset Law, the Sunset Committee recommends the continuance of the State Board of Occupational Therapy, with the additional recommendations for statutory changes of the board as set out in Section 3 of this act.

Section 2. The existence and functioning of the State Board of Occupational Therapy, created and functioning pursuant to Sections 34-39-1 to 34-39-16, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. Sections 34-39-3, 34-39-5, 34-39-7, 34-39-8, and 34-39-10 of the Code of Alabama 1975, are amended to read as follows:

"§34-39-3.

"In this chapter, the following terms shall have the respective meanings provided in this section unless the context clearly requires a different meaning:

"(1) ASSOCIATION. The Alabama Occupational Therapy Association.

"(2) BOARD. The Alabama State Board of Occupational Therapy.

"(3) LICENSE. A valid and current certificate of registration issued by the Alabama State Board of Occupational Therapy.

"(4) OCCUPATIONAL THERAPY. The application of purposeful activity in which one engages for evaluation, treatment, and consultation related to problems interferring with functional

performance in persons impaired or threatened by physical illness or injury; psychosocial dysfunction; congenital dysfunction; developmental and learning dysfunction; the aging process; environmental deprivation or anticipated dysfunction; in order to maximize independence, prevent disability, and maintain health. Specific occupational therapy services include, but are not limited to, evaluation techniques such as assessment of sensory motor abilities; assessment of the development of self-care activities and capacity for independence; assessment of the capacity for work readiness and work tasks; assessment of play and leisure performance; and assessment of environmental areas for the handicapped. Specific occupational therapy treatment techniques include activities of daily living (ADL); the design, fabrication, and application of selected splints or orthotics, or both; sensorimotor activities and exercise; the use of specifically designed goal oriented arts and crafts; design, fabrication, selection, and use of adaptive equipment; therapeutic activities, modalities, and exercises to enhance functional performance; work readiness evaluation and training. An occupational therapist or occupational therapy assistant is qualified to perform the above activities for which they have received training and any other activities for which appropriate training or education, or both, has been received. Notwithstanding any other provision of this chapter, no occupational therapy treatment programs to be rendered by an occupational therapist, occupational therapy assistant, or occupational therapy aide shall be initiated without the referral of a licensed physician or dentist who shall establish a medical diagnosis of the condition for which the individual will receive occupational therapy services. In cases of long-term or chronic disease, disability, or dysfunction, or any combination of the foregoing, requiring continued occupational therapy services, the person receiving occupational therapy services must be reevaluated by a licensed physician or dentist at least annually for confirmation or modification of the medical diagnosis. Occupational therapists employed by state agencies and those employed by the public schools and colleges of this state who provide screening and rehabilitation services for the educationally related needs of the students are exempt from this referral requirement.

"(5) OCCUPATIONAL THERAPIST. A person licensed to practice occupational therapy as defined in this chapter, and whose license is in good standing.

"(6) OCCUPATIONAL THERAPY ASSISTANT. A person licensed to assist in the practices of occupational therapy under the supervision of, or with the consultation of, a licensed occupational therapist whose license is in good standing.

"(7) OCCUPATIONAL THERAPY AIDE. A person who assists in the delivery of occupational therapy, who works under direct on-site supervision of an occupational therapist or occupational therapy assistant, or both, and whose activities require an understanding of occupational therapy but do not require professional or advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy.

"(8) PERSON. A human person only, not a legal entity.

"(9) WITH THE CONSULTATION OF. The collaboration of two or more persons on a regularly scheduled basis for the purpose of planning, review, or evaluation of occupational therapy services."

"§34-39-5.

"Nothing in this chapter shall be construed as preventing or restricting the practice, services, or activities of any of the following persons:

"(1) Any person licensed under any other law of the state from engaging in the profession for which he or she is licensed.

"(2) Any person employed as an occupational therapist or an occupational therapy assistant by the government of the United States, if the person provides occupational therapy solely under the direction or control of the organization by which he or she is employed.

"(3) Any person pursuing a course of study leading to a degree or certificate in occupational therapy at an accredited or approved educational program if the activities and services constitute a part of a supervised course of study, if the person is designated by a title which clearly indicates his or her status as a student or trainee.

"(4) Any person fulfilling the supervised fieldwork experience requirements of subdivision (2) of Section 34-39-8.

"§34-39-7.

"(a) The board shall administer, coordinate, and enforce this chapter.

"(b) The board shall, within 90 days of the time at which it is appointed, notify all current practitioners of occupational therapy in the state, as identified by the American Occupational Therapy Certification Board, of the enactment of this chapter and its otherwise becoming a law.

"(c) The board shall adopt and publish rules and regulations relating to the professional conduct to carry out the policies of this chapter, including but not limited to regulations relating to professional licensure, registration, and the establishment of ethical standards of practice. The State Board of Medical Examiners and the Alabama State Board of Occupational Therapy must jointly approve any rule, regulation or policy that interprets, explains, or enumerates the permissible acts, functions, or services rendered by an occupational therapist, occupational therapy assistant, or occupational therapy aide as those acts, functions, and services are defined in Section 34-39-3. Any rule, regulation, or policy adopted in violation of this requirement is invalid.

"(d) The board shall evaluate the qualifications of all applicants for licensure under this chapter and shall maintain a register of all persons holding a license and a record of all inspections made.

"(e) The board shall approve all examinations of applicants for licensure at least twice a year, shall determine the qualifications and authorize the issuance of licenses to qualified occupational therapists and occupational therapy assistants, and shall renew, suspend, or revoke the licenses in the manner provided.

"(f) The board may investigate complaints and allegations concerning the violation of this chapter and may examine witnesses, issue subpoenas, and administer oaths in connection with these investigations. Hearings may be conducted, provided reasonable public notice is given and records and minutes are kept in accordance with the rules and regulations of the board.

"(g) The board shall make an annual report to the Governor which shall contain an account of duties performed, actions taken, and appropriate recommendations.

"(h) The board shall establish a budget in accordance with the requirements of the state.

"(i) The board may establish and publish reasonable fees as established in Section 34-39-14.

"(j) The board may employ and discharge an executive secretary and any officers and employees as may be necessary, and shall determine their duties and fix their compensation in accordance with applicable state statutes."

"§34-39-8.

"An applicant for licensure as an occupational therapist or as an occupational therapy assistant shall file a written application

on forms provided by the board, showing to the satisfaction of the board fulfillment of all of the following requirements:

"(1) Applicant shall present evidence satisfactory to the board of having successfully completed the academic requirements of an educational program in occupational therapy recognized by the board.

"a. For an occupational therapist, such a program shall be accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association, Inc.; or an individual may have successfully completed the career mobility program of the American Occupational Therapy Association.

"b. For an occupational therapy assistant, the program shall be accredited by the American Occupational Therapy Association, Inc.

"(2) Applicant shall submit to the board evidence of having successfully completed a period of supervised fieldwork experience at a recognized educational institution or a training program approved by the educational institution where he or she met the academic requirements.

"a. For an occupational therapist, a minimum of 24 weeks supervised fieldwork experience is required.

"b. For an occupational therapy assistant, a minimum of eight weeks supervised fieldwork experience is required.

"(3) Applicant shall pass an examination as provided for in Section 34-39-9."

"§34-39-10.

"(a) The board shall grant a license to any person certified prior to April 17, 1990 as an occupational therapist registered (OTR) or as a certified occupational therapy assistant (COTA) by the American Occupational Therapy Association, Inc. The board may waive the examination, education, or experience and grant a license to any person certified after April 17, 1990, by a national occupational therapy certification board, if the board considers the requirements for certification to be equivalent to the requirements under the terms of this chapter.

"(b) The board may waive the examination, education, or experience requirements and grant a license to any applicant who shall present proof of current licensure as an occupational therapist or an occupational therapy assistant in another state, the District of Columbia, or territory of the United States which requires

standards for licensure considered by the board to be equivalent to the requirements for licensure of this chapter.

"(c) The board shall cause notification to be sent to all occupational therapists and occupational therapy assistants presently employed or practicing occupational therapy in this state. The notification shall summarize the requirements of this chapter and provide information on procedures for obtaining a license."

Section 4. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1, 2, and 3 of this act.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this act are repealed.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 29, 1995

Time: 1:37 P.M.

Act No. 95-280

H. 481 – Reps. Flowers, Hooper, Pringle, Knight (J), Morrison, Smith, Payne, Box, Parker (T), Newton (C), Collins, Venable, Hamilton, Reed, Clouse, Baker, Crigler, Moore, Curry, Hawkins, Carns, Hill

AN ACT

Relating to the sale or lease of certain real property by the State of Alabama; requiring sales and leases of real property with a certain appraised value belonging to the state or the departments, boards, bureaus, commissions, institutions, corporations, and agencies of the state to be sold by open competitive public auction or sealed bids; requiring the appraisal of the property and the establishment and publication of the minimum amount at which the property may be sold or leased; requiring the advertising of proposals to make a sale or lease of real property; authorizing the payment of expenses of the sale or lease by the agency selling or leasing the property and the payment of a fee to the Lands Division of the State Department of Conservation and Natural Resources for administering the sale or lease; prohibiting certain persons from bidding on or purchasing the property; authorizing civil and criminal actions and penalties for violations of this act; providing that this act shall not apply to certain transfers, reversions, and sales; authorizing the disbursement of proceeds from the sale of property under this act; repealing all laws in conflict with this act and specifically repealing Section 41-4-33, Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1.

This act applies to all real property and interests therein owned by the State of Alabama and the departments, boards, bureaus, commissions, institutions, corporations, and agencies of the state with the exception of those sales, transfers, and reversions set out in Section 13 of this act. As used in this act, real property shall include land, lots, and all things and interests, including leasehold interests, pertaining thereto, and all other things annexed or attached to the land which would pass to a vendee by conveyance of the land or lot, including mineral and gas and oil interests. The state has the right to reserve all or any part of the mineral, oil, or gas interests and also the right of ingress and egress thereto.

Section 2. All sales and leases made by, or on behalf of, the State of Alabama, or any department, board, bureau, commission, institution, corporation, or agency, of real property or any interest therein owned by the State of Alabama having an appraised value of more than ten thousand dollars ($10,000) shall be made by free and open competitive advertised public auction or advertised sealed bids to the highest bidder.

Section 3. Each department, board, bureau, commission, institution, corporation, or agency which holds real property shall notify the Lands Division of the State Department of Conservation and Natural Resources of its desire and intention to sell or lease any of the real property and shall provide such information as may be specified by the Lands Division. The Lands Division shall be responsible for obtaining the appraisal, deed, and other documents needed for selling or leasing the property under this act and for handling the closing of the sale or lease. No sale or lease involving an amount of more than ten thousand dollars ($10,000) shall be divided into smaller parcels involving less than ten thousand dollars ($10,000) for avoiding the requirements of this act.

Section 4. The Lands Division shall have the real property or the interests in the real property appraised by a real estate appraiser selected by the Lands Division who is licensed by the State Board of Appraisers prior to the advertisement of the sale of the property. If the Lands Division is not satisfied with one appraisal, additional appraisals may be obtained. All appraisals shall be in writing.

Section 5. After obtaining an appraisal on the real property and consulting with the chief executive officer of the department, board, bureau, commission, institution, corporation, or agency which desires to sell or lease the real property, the Lands Division

shall establish and publish the minimum amount for which the real property may be sold or leased. The determination to sell or lease the real property shall be made by the chief executive officer of the department, board, bureau, commission, institution, corporation, or agency desiring to sell or lease the real property with the approval of the Governor after giving due consideration to the results of the appraisal made upon the real property. With the approval of the Governor, the chief executive officer shall have the right to accept or reject all bids submitted for the purchase of the real property under these provisions. The chief executive officer and the Governor in consultation with the Director of the Lands Division of the State Department of Conservation and Natural Resources shall determine if the sale or lease of real property is to be by free and open competitive advertised public auction or advertised sealed bids.

Section 6. Every proposal to make a sale or lease under this act shall be advertised for at least once a week for four weeks in advance of the date fixed for receiving bids or public auction. The advertisement shall appear at least once a week for four consecutive weeks in a newspaper of general circulation in the county or counties where the property is located, and at least one time in three other newspapers of general circulation throughout the state. Property located outside the State of Alabama shall be advertised at least one time in three newspapers of general circulation throughout the state. A copy of the proposal shall simultaneously be posted on a readily accessible public bulletin board at the main office of the Lands Division of the State Department of Conservation and Natural Resources. Persons who request notification of the sale or lease of real property by the state and who provide their mailing address with the Lands Division shall be sent notice of the sale or lease. Advertisements for bids shall state the real property to be sold, by description, where the property is located, and the dates and times when the property may be inspected. The advertisements shall further state the date, time, and place of auction or opening of sealed bids. The advertisements shall state that all bids may be rejected by the state. No bid shall be received at any time after the time advertised.

Section 7. Each person or corporation submitting a bid on real property or an interest therein to be sold or leased by the State of Alabama under this act shall present with his or her bid, payable to the Lands Division of the State Department of Conservation and Natural Resources, a certified check or bank cashier's check in the amount to be determined by the Lands Division not to exceed 20 percent of his or her bid, as a binder on the real property upon which he or she has bid. If the property is

being sold at public auction, the Lands Division shall determine the amount of the binder required. The binder shall be forfeited by the person or corporation to whom the bid is awarded if the person or corporation does not complete purchase by presenting to the state a cashier's check or certified check for the amount due less the amount of the binder previously submitted on the real property within 30 days after receiving notice in writing that he or she is the successful bidder. The binder shall be applied to the purchase price of the successful bid. The Director of the Lands Division for good cause shown may extend the period for completing the sale for one additional period of seven days. Certified checks submitted as binders by those persons or corporations not awarded the bid shall be returned to the persons or corporations.

Section 8. The expenses of the appraisal and contemplated sale or lease shall be paid by the department, board, bureau, commission, institution, corporation, or agency offering the property for sale. The Lands Division of the State Department of Conservation and Natural Resources shall receive a fee in reimbursement of its actual expenses for administering the sale of real property under this act. The fee shall be disbursed to the Lands Division in the final disposition of the funds received from the sale of the property.

Section 9. The bids shall be publicly taken or opened in Montgomery or such other place as may be designated by the Lands Division, in case of sealed bids, by the Director of the Lands Division of the State Department of Conservation and Natural Resources or his or her designee and the department, board, bureau, commission, institution, corporation, or agency selling the property may have a representative present. When a sale or lease is to be made, notice shall be given to the highest bidder within 30 days after taking the bids of the state's acceptance of his or her bid and of the state's intention to sell or lease the property to him or her. The bid of the successful bidder so marked, as well as the bids of the unsuccessful bidders in the case of sealed bids, shall be placed on file open to public inspection and shall become matters of public record.

Section 10. In the event no bids are received or all the bids are rejected by the chief executive officer of the department, board, bureau, commission, institution, corporation, or agency selling or leasing the property after the approval of the Governor, the sale or lease of the real property may be negotiated. No sale or lease may be made at a price less than the highest bid received or the published minimum, whichever is highest, and the sale or lease shall require the approval of the Governor. All real property sold or leased under this act shall be paid for by the purchaser or his or

her representative by cashier's check or certified check, and the sale or lease shall be closed not later than 30 days after the written notice of acceptance of the bid.

Section 11. Officers and employees of the department selling or leasing the real property and officers and employees of the Department of Conservation and Natural Resources, as well as members of their families, shall be excluded from bidding on the property at a public auction or by sealed bids. Other officers or employees of the state shall not be excluded from bidding on or purchasing the real property at public sale or sealed bid.

Section 12. Any sale or lease of real property or any interest therein of the state made in violation of this act shall be null and void, and the person or persons violating this act shall be subject to criminal prosecution by the Attorney General. In addition to the prosecution, damages for loss or injury to the state may be recovered for the State of Alabama by the Attorney General by civil action in the Circuit Court of Montgomery County. The expenses of investigation, or litigation and prosecution, or both, under this act shall be reimbursed from funds recovered to the Attorney General. All other moneys recovered by the Attorney General shall be deposited in the State General Fund. Violation of this act shall also constitute a Class C felony punishable as prescribed by law.

Section 13. This act shall not apply to the transfers of real property between departments, boards, bureaus, commissions, institutions, corporations, or agencies of the state. These transfers may be made by mutual agreements between the chief executive officers of the respective departments with the approval of the Governor. This act shall not apply to the leasing or sale of timber from unused lands under Section 9-15-1, et seq., Code of Alabama 1975; to the leasing or sale of timber from school lands and swamp and overflowed lands under Section 9-15-30, et seq., Code of Alabama 1975; to the leasing of oil, gas, and other minerals under Section 9-17-60, et seq., Code of Alabama 1975; real property sold by the Department of Revenue under tax sales and redemptions; to the sale of property by the Alabama Historical Commission under Section 41-9-249(7), Code of Alabama 1975; to reversions made under Section 31-4-18, Code of Alabama 1975; to the sale or conveyance of real property by the Alabama Housing Finance Authority or to property traded in Right of Way Negotiations or Sales of Excess Right of Way or uneconomic remnants by the State Department of Transportation. Notwithstanding any other provisions of this act, the Alabama Forestry Commission shall have the authority to conduct real property sales in accordance with this act without going through the Lands Division. In so doing, the Alabama Forestry Commission shall comply with all other

provisions of this act. This act shall not apply to the granting of easements, rights-of-way for utilities, roads, streets, and sidewalks where there is no competitive market. Notwithstanding any other provision of this act, institutions and systems of higher education with separately constituted boards of trustees or those institutions of higher education subject to the supervision and authority of the State Board of Education that have written policies and procedures governing transfers of interest in real property have the authority to conduct real property sales and leases by public auction or publicly sought sealed bid in accordance with procedures in the act for advertising and receiving bids, without going through the Lands Division of the State Department of Conservation and Natural Resources. Furthermore, in those cases in which it can be economically justified and it is deemed to be in the best interest of the institution or system and the State of Alabama to offer an interest in real property for sale or lease through a listing with a duly licensed real estate broker who shall publicize the offer in accordance with customary practices or through negotiation after publicly announced requests for proposals to sell or lease the property are made, rather than through a procedure otherwise described in this act, the institution or system may do so, provided that a written declaration setting forth the specific reasons why it is deemed to be in the best interest of the institution or system and the State of Alabama to make specific sale or lease in question in such manner is made by an agent of the institution authorized by the board of trustees or the State Board of Education, and subsequently ratified by the board of trustees or the State Board of Education and the document shall be retained and made a part of the permanent file and shall be open to public inspection. Sales and leases transacted as described in this section shall be deemed to be in compliance with all provisions of this act. Ground leases and leases of facilities by institutions of higher education to social or professional organizations, faculty members, employees, or for institution-related purposes which are designed to enhance the operation of the institution and are declared to be in the best interest of the institution by the board of trustees or the State Board of Education, are exempt from the provisions of this act. Such declaration shall be maintained as aforesaid.

Except as set out hereinafter, nothing herein contained shall be construed to apply in any manner to the sale or lease of any real property or any interest therein owned in whole or in part by any County or Municipal Board of Education, any County or municipal government or any of their respective boards, agencies, departments, corporations or instrumentalities including corporations and/or boards in regard to which any County or municipal governing body is a determining or appointing authority. Provided that

nothing herein contained shall be construed to apply in any manner to the sale or lease of any real property or interest therein owned by the State of Alabama and the departments, boards, bureaus, commissions, instrumentalities, corporations and agencies of the State to any County or Municipal Board of Education, any County or Municipal governing body or any of their respective boards, agencies, departments, corporations or instrumentalities including corporations and/or boards in regard to which any County or municipal governing body is a determining or appointing authority, subject to the condition that such property or any interest therein is not resold, leased or otherwise transferred in whole or in part to any private person, firm or corporation without compliance with the provisions of this Act. Provided, however, that if the property is to be sold within five years from the date it was acquired, the state shall have the right to repurchase the property at the price it was sold by the state. Provided, further, that all such transactions between any County or Municipal Board of Education, any county or municipal government or any of their respective boards, agencies, departments, corporations or instrumentalities including corporations or boards and the state or any department, board, bureau, commissions, instrumentalities, corporations and agencies of the state shall have the approval of the Governor and written notice of such transaction shall be given to the Lands Division of the Conservation Department at least 30 days before the closing of such transaction.

Section 14. Whenever any real property is sold or leased under this act, the proceeds from the sale, less the expenses of the sale or lease, shall be deposited to the credit of the fund of the state department, commission, board, bureau, institution, corporation, or agency which offered the real property for sale.

Section 15. The Lands Division is authorized to promulgate such rules and regulations as may be necessary to implement the provisions of this act.

Section 16. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 17. All laws or parts of laws which conflict with this act are repealed, and Section 41-4-33, Code of Alabama 1975, is specifically repealed.

Section 18. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law. However, the provisions of this act shall not apply to any transaction in regard to which there is an executed contract for sale or lease as of the effective date of this act.

Approved June 29, 1995

Time: 1:38 P.M.

Act No. 95-281 H. 118 – Rep. Box

AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board for Registration of Architects with certain modifications; to amend Section 34-2-33, Code of Alabama 1975, so as to provide further for the examination fee and to provide for reinstatement of a lapsed license.

Be It Enacted by the Legislature of Alabama:

Section 1. Pursuant to the Alabama Sunset Law, the Sunset Committee recommends the continuance of the Board for Registration of Architects, with the additional recommendation for statutory change of the board as set out in Section 3 of this act.

Section 2. The existence and functioning of the Board for Registration of Architects, created and functioning pursuant to Sections 34-2-30 to 34-2-42, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. Section 34-2-33 of the Code of Alabama 1975, is amended to read as follows:

"§34-2-33.

"(a) The board shall receive applications for registration as an architect only on forms prescribed and furnished by the board.

"Upon receipt of the application and the payment of a fee, as established by the board, for residents and nonresidents, the fee in no event exceeding two hundred dollars ($200) for residents and two hundred fifty dollars ($250) for nonresidents, the board shall promptly notify the applicant of examination requirements for certification.

"If the board determines the applicant requires examination, the application fee shall apply to the cost of the examination fee, which shall in no event exceed the actual cost of the examination as purchased and administered by the board.

"(b) The board may issue to an applicant without further examination, a certificate of registration as an architect, provided the applicant holds an unexpired certificate issued to him by the National Council of Architectural Registration Boards, hereinafter referred to as "NCARB".

"(c) Either of the following facts established in the application shall be regarded as prima facie "evidence" satisfactory to the

board that the applicant is fully qualified to be examined for certification:

"(1) Graduation after a course of study of a length as the board shall by regulation determine from a school or college of architecture accredited by the National Architectural Accrediting Board, hereinafter referred to as "NAAB", and an additional period of practical experience in architectural work under the control and supervision of a registered architect or architects as the board by regulation shall deem appropriate.

"(2) Acceptable combinations of education and apprenticeship as may be established by the board. Acceptable combinations of education and apprenticeship shall comply with the standards of education, training and character as set forth in Appendix "A" in the 1983 NCARB Circular of Information Number 1. Applicants for examination who meet the aforementioned qualification must submit notice of intent to sit for the examination before December 30, 1987, or 90 days after the passage of the amendatory act, whichever time period is longer. After that time, the only qualification for examination acceptable to the board will be graduation from a NAAB accredited school or college and an additional period of practical experience.

"Unless exempted, applicants must take and pass the professional examination administered by the board.

"(d) In determining the sufficiency of the qualifications of the applicant for registration, a majority vote of the members of the board shall be required.

"(e) Certificates for registration shall expire on the thirtieth day of September following their issuance or renewal and shall become invalid on that day unless renewed.

"Certificates of registrants who are or may be in the armed forces of the United States shall not expire until the thirtieth day of September following the discharge or final separation of the registrant from the armed forces of the United States.

"(f) Renewal may be effected at any time prior to or during the month of September by the payment of a fee for bona fide residents of the state of Alabama and by the payment of a fee for nonresidents of the state of Alabama. Fees shall be established by the board, in amounts not to exceed seventy-five dollars ($75) for residents and one hundred fifty dollars ($150) for nonresidents. Renewal shall be effected not later than December 31 in order to avoid the penalty prescribed for failure to timely renew.

"A penalty not to exceed the sum of seventy-five dollars ($75) may be added to the renewal fee for failure to renew a certificate upon such terms and conditions as the board may by regulation determine.

"(g) A registrant whose certificate of registration has lapsed may have it reinstated, if in compliance with other relevant requirements, by filing a renewal form and paying, in addition to the appropriate renewal fee and late penalty, a reinstatement fee of one hundred dollars ($100) for residents and one hundred fifty dollars ($150) for nonresidents.

"(h) There is hereby created, for renewal of certificate purposes, a status to be known as "emeritus status architect," which shall apply to architects who have been registered for 10 consecutive years or longer, and who are 65 years of age or older, and who have retired from active practice. The annual renewal of registration for emeritus status shall be renewed without payment of a fee. If an emeritus status architect subsequently wishes to practice, he may do so without penalty by proper application to the board."

Section 4. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1, 2, and 3 of this act.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this act are repealed.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 29, 1995

Time: 1:39 P.M.

Act No. 95-282 H. 112 – Rep. Box

AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the State Board of Registration for Professional Engineers and Land Surveyors with certain modifications; to amend Sections 34-11-4, 34-11-30, 34-11-31, and 34-11-36, Code of Alabama 1975, so as to provide further for reciprocity; to provide further for board membership qualifications.

Be It Enacted by the Legislature of Alabama:

Section 1. Pursuant to the Alabama Sunset Law, the Sunset Committee recommends the continuance of the State Board of Registration for Professional Engineers and Land Surveyors, with the additional recommendations for statutory changes of the board as set out in Section 3 of this act.

Section 2. The existence and functioning of the State Board of Registration for Professional Engineers and Land Surveyors, created and functioning pursuant to Sections 34-11-1 to 34-11-37, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. Sections 34-11-4, 34-11-30, 34-11-31, and 34-11-36 of the Code of Alabama 1975, are amended to read as follows:

"§34-11-4.

"The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for registration as a professional engineer, certification as an engineer-in-training, or registration as a professional land surveyor, respectively:

"(1) PROFESSIONAL ENGINEER.

"a. Graduation and experience plus examination.

"1. Graduation in an approved engineering curriculum plus four years experience. — A graduate of an approved engineering curriculum of four years or more from a school or college approved by the board as of satisfactory standing; and with a specific record of an additional four years or more of experience in engineering work of a grade and character satisfactory to the board, and indicating that the applicant may be competent to practice engineering shall be admitted to an eight-hour written examination in the fundamental engineering subjects and, after passing the examination in the fundamental engineering subjects, shall be admitted to an eight-hour written examination in the principles and practice of engineering. Upon passing the examinations, the applicant shall be granted a certificate of registration to practice engineering in this state, provided he or she is otherwise qualified. In counting years of experience, the board at its discretion may give credit, not in excess of one year, for satisfactory graduate study in engineering.

"2. Graduation in an unapproved engineering curriculum plus six years experience. — A graduate of an unapproved engineering curriculum of four years or more and with a specific record of six years or more of progressive experience in engineering work of a grade and character satisfactory to the board and indicating that the applicant may be competent to practice engineering shall be admitted to an eight-hour written examination in the fundamental engineering subjects, and after passing the examination in the fundamental engineering subjects shall be admitted to an

eight-hour written examination in the principles and practice of engineering. Upon passing the examinations, the applicant shall be granted a certificate of registration to practice engineering in this state, provided he or she is otherwise qualified.

"3. Graduation in an approved engineering technology or related science curriculum plus eight years experience. — A graduate of an approved engineering technology curriculum of four years or more from a school or college approved by the board or a graduate of a related science curriculum of four years or more and with a specific record of eight years or more of progressive experience in engineering work of a grade and character satisfactory to the board and indicating that the applicant may be competent to practice engineering shall be admitted to an eight-hour written examination in the fundamental engineering subjects, and after passing the examination in the fundamental engineering subjects shall be admitted to an eight-hour written examination in the principles and practice of engineering. Upon passing the examinations, the applicant shall be granted a certificate of registration to practice engineering in this state, provided he or she is otherwise qualified.

"b. Experience plus examination. — Prior to December 31, 1992, an applicant having a specific record of 12 years or more of progressive experience in engineering work of a character and grade satisfactory to the board and indicating that the applicant may be competent to practice engineering shall be admitted to an eight-hour written examination in the fundamental engineering subjects, and after passing the examination in the fundamental engineering subjects shall be admitted to an eight-hour written examination in the principles and practice of engineering. Upon passing the examinations, the applicant shall be granted a certificate of registration to practice engineering in this state, provided **he or she is otherwise qualified.**

"c. Reciprocity. — The board may, upon application, issue a certificate of registration as a professional engineer to any person who holds a valid certificate issued by a national examination organization for engineers and land surveyors as selected by the board, or of any state or territory or possession of the United States, the District of Columbia, or of any country; provided, that the qualifications of the applicant meet the requirements of this chapter and the rules established by the board. Such an applicant may, at the discretion of the board, be authorized to practice engineering on a temporary basis upon issuance of an interim permit which shall remain in effect until the board acts upon the application. The interim permit may be issued upon submission of documentation and a fee which shall be established by regulation of the board, not to exceed fifty dollars ($50).

"(2) ENGINEER-IN-TRAINING.

"a. Graduation plus examination. Graduation plus training for ENGINEER-IN-TRAINING includes any of the following combinations:

"1. Graduation in an approved engineering curriculum. — A graduate of an approved engineering curriculum of four years or more from a school or college approved by the board as of satisfactory standing and successfully passing an eight-hour written examination in the fundamental engineering subjects.

"2. Graduation in an unapproved engineering curriculum plus two years experience. — A graduate of an unapproved engineering curriculum of four years or more and with a specific record of two years or more of progressive experience in engineering work of a grade and character satisfactory to the board and successfully passing an eight-hour written examination in the fundamental engineering subjects.

"3. Graduation in an approved engineering technology or related science curriculum plus four years experience. — A graduate of an engineering technology curriculum or of a related science curriculum of four years or more and with a specific record of four years or more of experience in engineering work of a grade and character satisfactory to the board and successfully passing an eight-hour written examination in the fundamental engineering subjects.

"b. Experience plus examination. — Prior to December 31, 1988, an applicant having a specific record of six years or more of experience in engineering work of a grade and character satisfactory to the board and successfully passing an eight-hour written examination in the fundamental engineering subjects.

"c. Reciprocity. — Engineer-in-training examinations of comparable character taken and passed in other states may be accepted by the board.

"d. Engineer-in-training certification. — The certification of an engineer-in-training shall be valid for a period of 10 years, except that applicants qualifying under paragraph b of subdivision (2) of this section may not be qualified for registration as a professional engineer after December 31, 1992.

"(3) PROFESSIONAL LAND SURVEYOR.

"a. Graduation and experience plus examination.

"1. Graduation in approved curriculum plus two years experience. — A graduate of a school or college approved by the board as

of satisfactory standing, including the completion of an approved course in surveying, with an additional two years or more of experience in land surveying work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice land surveying, shall be admitted to an eight-hour written examination in the fundamentals of land surveying, and after passing the fundamentals shall be admitted to a four-hour written examination in the principles and practice of land surveying and a four-hour written examination on laws, procedures and practices pertaining to land surveying in this state. Upon passing the examinations, the applicant shall be granted a certificate of registration to practice land surveying in this state, provided he or she is otherwise qualified.

"2. Graduation in unapproved engineering curriculum plus four years experience. — A graduate of an unapproved engineering curriculum of four years or more or a graduate of an approved land surveying technology curriculum and with a specific record of four years or more of progressive experience in land surveying work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice land surveying shall be admitted to an eight-hour written examination in the fundamentals of land surveying, and after passing the fundamentals shall be admitted to a four-hour written examination in the principles and practice of land surveying and a four-hour written examination on laws, procedures and practices pertaining to land surveying in this state. Upon passing the examinations, the applicant shall be granted a certificate of registration to practice land surveying in this state, provided he or she is otherwise qualified.

"b. Experience plus examination. — An applicant having a specific record of eight years or more of experience in land surveying work of a grade and character satisfactory to the board and indicating that the applicant is competent to practice land surveying shall be admitted to an eight-hour written examination in the fundamentals of land surveying, and after passing the fundamentals shall be admitted to a four-hour written examination in the principles and practice of land surveying and a four-hour written examination on laws, procedures and practices pertaining to land surveying in this state. Upon passing the examinations, the applicant shall be granted a certificate of registration to practice land surveying in this state, provided he or she is otherwise qualified.

"(4) CHARACTER. — No person shall be eligible for registration as a professional engineer, certification as an engineer-in-training, or registration as a professional land surveyor who is not of good character and reputation.

"(5) TEACHING CREDITS. — In considering the qualifications of applicants, engineering teaching with the rank equivalent to assistant professor or higher in an engineering curriculum approved by the board may be construed as equivalent to engineering experience.

"(6) NONPRACTICING APPLICANTS. — Any person having the necessary qualifications prescribed in this chapter to entitle him or her to registration shall be eligible for registration although not practicing his or her profession at the time of making application."

"§34-11-30.

"A State Board of Registration for Professional Engineers and Land Surveyors is hereby created. It shall be the duty of the board to administer this chapter. The board shall consist of four professional engineers and one professional land surveyor, each of whom shall be appointed by the Governor from a list of three persons nominated by a committee. This committee shall consist of one professional engineer or professional land surveyor, respectively, appointed or elected by an active Alabama chapter of each of the following societies: American Society of Civil Engineers; American Institute of Mining, Metallurgical and Petroleum Engineers; American Institute of Chemical Engineers; Institute of Electrical and Electronics Engineers; American Society of Mechanical Engineers; Alabama Society of Professional Engineers; and Alabama Society of Professional Land Surveyors. Any other society with active chapters in the state having membership qualifications comparable to those of the above societies may petition the board for membership on the committee, and the board at its own discretion may grant the membership. Nominees shall have the qualifications required by Section 34-11-31. The foregoing nominations shall be made by a majority vote of the committee present at the same time at a meeting called by the secretary of the board, who shall advise the above named societies of the meeting at least 30 days before it is held. Each member of the board shall receive a certificate of appointment from the Governor and before beginning his or her term of office shall file with the Secretary of State his or her written oath or affirmation for the faithful discharge of his or her official duty. The members of the board serving on September 15, 1961, shall continue to serve under this chapter until their respective terms expire. On the expiration of the term of each member, the Governor shall in the manner heretofore provided appoint for a term of five years a professional engineer or professional land surveyor having the qualifications required by Section 34-11-31 to take the place of the member whose term on the board is about to expire. Each member so appointed shall hold office

until the expiration of the term for which the member is appointed or until a successor shall have been duly appointed and qualified."

"§34-11-31.

"Each member of the board shall be a citizen of the United States and a resident of this state, a registered professional engineer or registered professional land surveyor, as the case may be, who holds an unexpired certificate under this chapter, who has been engaged in the practice of engineering or land surveying, respectively, for at least 12 years and who has been in responsible charge of important engineering or land surveying, respectively, work for at least five years."

"§34-11-36.

"The executive director of the board shall receive and account for all money derived under this chapter, and shall pay it monthly to the State Treasurer, who shall keep the money in a separate fund to be known as the "Professional Engineers Fund." The fund shall be kept separate and apart from all other money in the treasury, and shall be paid out only by warrant of the Comptroller upon the treasurer, upon itemized vouchers, approved by the executive director of the board. No funds shall be withdrawn or expended except as budgeted and allotted according to Article 4 of Chapter 4 of Title 41; and provided, further, that any funds or money in the hands of the state treasurer, known as the professional engineers fund, at the end of the state fiscal year in excess of that amount equal to twenty-five percent of the budget of the board for the previous fiscal year shall be transferred into the general fund of the state. The money, properties, records, and other things of value owned by or allocated to the fund, the board, or the executive director of the board in his or her capacity as such, serving at the time of enactment of this chapter, shall become the property of and be allocated respectively to the fund, the board, or the executive director of the board under this chapter. The executive director of the board shall give a surety bond to the state in a sum as the board may determine. The premium on the bond shall be regarded as a proper and necessary expense of the board and shall be paid out of the fund. The executive director of the board shall receive such salary as the board shall determine, in addition to compensation and expenses provided for in Section 34-11-32. The board may employ an executive director and, when necessary, an assistant executive director and fix their compensation and duties. The board may employ such clerical or other assistants, subject to the provisions of the Merit System Act, and may make expenditures from the fund for any purpose which in the opinion of the board is reasonably necessary for the proper performance of its duties under this chapter, including the expenses of the board's

delegates to regional and national meetings of, and membership dues to, the National Council of Engineering Examiners and any of its subdivisions. Under no circumstances shall the total amount of warrants issued by the Comptroller in payment of the expenses and compensation provided for in this chapter exceed the amount provided therefor by the Legislature in the general appropriation or other appropriation bills."

Section 4. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1, 2, and 3 of this act.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this act are repealed.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 29, 1995

Time: 1:40 P.M.

Act No. 95-283 H. 113 – Reps. Hall (A), Box

AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Examiners of Landscape Architects with certain modifications; to amend Sections 34-17-4, 34-17-21, 34-17-25, and 34-17-26, Code of Alabama 1975, so as to provide further for the use of the title "landscape architect" in a corporate or partnership name; to provide further for the submission of applications and the qualifications of applicants; to discontinue the issuance of temporary certificates; and to provide for reciprocity with other countries.

Be It Enacted by the Legislature of Alabama:

Section 1. Pursuant to the Alabama Sunset Law, the Sunset Committee recommends the continuance of the Board of Examiners of Landscape Architects, with the additional recommendations for statutory changes of the board as set out in Section 3 of this act.

Section 2. The existence and functioning of the Board of Landscape Architects, created and functioning pursuant to Sections 34-17-1 to 34-17-27, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. Sections 34-17-4, 34-17-21, 34-17-25, and 34-17-26 of the Code of Alabama 1975, are amended to read as follows:

"§34-17-4.

"(a) A corporation or partnership, as such, may not be licensed or registered to practice landscape architecture, but may, if issued a certificate of authorization by the board, use any form of the title "landscape architect" in connection with the corporate or partnership name.

"(b) The right to engage in the practice of landscape architecture is a personal right, based upon the qualifications of the individual evidenced by his license and is not transferable. All final drawings, specifications, plans, reports or other papers or documents involving the practice of landscape architecture, as defined in Section 34-17-1 when issued or filed for public record, shall be dated and bear the signature and seal of the landscape architect or landscape architects who prepared or approved them.

"(c) Nothing in subsections (a) and (b) of this section shall be construed to prevent the formation of partnerships and corporations as a vehicle for the practice of landscape architecture subject to all the following conditions:

"(1) The practice of or offer to practice landscape architecture for others as defined in Section 34-17-1 by individual landscape architects licensed under this chapter through a corporation as officers, employees, or agents, or through a partnership as partners, officers, employees, or agents, or the offering or rendering of landscape architecture services by a corporation or partnership through individual landscape architects licensed under this chapter is permitted, subject to the provisions of this chapter if all the following requirements are satisfied:

"a. One or more of the corporate officers in the case of a corporation, or one or more of the partners in the case of a partnership, is designated as being responsible for the professional services described in Section 34-17-1 of the corporation or partnership and is a landscape architect under this chapter.

"b. All personnel of the corporation or partnership, who act in its behalf as landscape architects, are licensed under this chapter.

"c. The corporation or partnership has been issued a certificate of authorization by the board, as hereinafter provided.

"The requirements of this chapter shall not prevent a corporation and its employees from performing landscape architectural services for the corporation, subsidiary, or affiliated corporations.

"(2) A corporation or partnership desiring a certificate of authorization shall file with the board an application on forms provided by the board listing relevant information, including the names and addresses of all officers and members of the corporation, or officers and partners of the partnership, and also of an individual or individuals duly licensed to practice landscape architecture in this state who shall be in responsible charge of the practice of landscape architecture in this state through the corporation or partnership, and other information required by the board, accompanied by an original authorization fee to be determined by the board. A form, giving the same information, shall accompany the annual renewal fee to be determined by the board. In the event there is a change in any of these persons during the year, the change shall be designated on the same form and filed with the board within 30 days after the effective date of the change. If all of the requirements of this section are met, the board shall issue a certificate of authorization to the corporation or partnership, and the corporation or partnership shall be authorized to contract for and to collect fees for landscape architectural services.

"(3) No corporation or partnership shall be relieved of responsibility for conduct or acts of its agents, employees, or officers by reason of its compliance with the this section, nor shall any individual practicing landscape architecture as defined in Section 34-17-1 be relieved of responsibility for landscape architectural services performed by reason of his employment or relationship with such corporation or partnership."

"§34-17-21.

"For licensing as a landscape architect, the following evidence shall be submitted that the applicant:

"(1) Is at least 19 years of age.

"(2) Has, before making application to the board, completed the course of study in and been graduated from a college or school of landscape architecture approved by the board. The application for examination shall be accompanied by proof of actual practical experience in landscape architectural work of a grade and character satisfactory to the board. Each complete year of study in an approved college or school of landscape architecture may be accepted in lieu of one year of practical experience, and the applicant shall submit evidence of sufficient additional acceptable experience to total five years of combined education and practical experience. The applicant shall also submit proof of one additional year of practical experience sufficient to total six years of combined education and practical experience. In lieu of graduation from an accredited college or school of landscape architecture, and the

practical experience in addition thereto, an applicant may be admitted to the examination upon presenting evidence of at least eight years of actual practical experience in landscape architectural work of a grade and character satisfactory to the board."

"§34-17-25.

"The fees prescribed by this chapter shall be in the following amounts:

"(1) The fee for application to the board is seventy-five dollars ($75).

"(2) The fee for examination or reexamination shall be in an amount as established by the board in order to cover all costs of examination, but in no event shall the fee exceed the actual cost of preparing and administering the examination.

"(3) The fee for an original certificate is fifty dollars ($50).

"(4) The fee for a duplicate certificate is fifty dollars ($50).

"(5) The annual license fee is one hundred dollars ($100) for residents of Alabama and one hundred fifty dollars ($150) for nonresidents.

"(6) The penalty fee is fifty dollars ($50), as provided in Section 34-17-24 of this chapter."

"§34-17-26.

"The board, subject to the provisions of this chapter and the rules and regulations of the board promulgated thereunder prescribing the qualifications for a landscape architect license, may permit the practice of landscape architecture in this state under a landscape architect license issued under the laws of any other state or country, upon payment of the current fee established by the board, and upon submission of all of the following evidence satisfactory to the board:

"(1) That the other state or country maintained a system and standard of qualifications and examinations for a landscape architect license which were substantially equivalent to those required in this state at the time the license was issued by the other state or country.

"(2) That the other state or country gives similar recognition and endorsement to landscape architect licenses of this state."

Section 4. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1, 2, and 3 of this act.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this act are repealed.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 29, 1995

Time: 1:41 P.M.

Act No. 95-284 H. 73 – Reps. Ford, Galliher, Page

AN ACT

Relating to Etowah County; levying a sales and use tax effective January 1, 1996, replacing the existing sales and use tax which expires on December 31, 1995; for the purposes of public education, public safety, and community development, providing that the county tax shall be administered, enforced, and collected as provided by law by Etowah County; providing for enforcement penalties; providing for the disposition of the proceeds of the revenue raised from the county tax; and establishing the Etowah County Community Development Committee and the Etowah County Library Committee.

Be It Enacted by the Legislature of Alabama:

Section 1. In Etowah County, there is levied a one cent ($.01) county sales and use tax in all areas of the county, which may become effective no sooner than January 1, 1996.

Section 2. The tax shall parallel the state sales and use taxes including exemptions therefrom and enforcement proceedings therefor. The Etowah County Commission shall administer and collect this tax and provide for enforcement penalties by resolution. The county commission may retain an amount or percentage of the total proceeds collected in such an amount as may be agreed upon by the members of the county commission, but in no event shall the charge exceed two percent of the total amount of tax collected under this act.

Section 3. The net proceeds of any sales and use taxes levied pursuant to this act shall be distributed as follows:

(1) The first sixty thousand dollars ($60,000) to Smeltzer Education Training Center.

(2) The next fifty thousand dollars ($50,000) to Mental Retardation 310 Center.

(3) The next ten thousand dollars ($10,000) to the Etowah County Rescue Squad.

(4) The next five thousand dollars ($5,000) to the Attalla Rescue Squad.

(5) Fifty percent of the remaining proceeds to be used only for construction, maintenance, equipment, or supplies shall be distributed as follows: 85 percent to the Gadsden School System, the Etowah County School System, and the Attalla School System on a pro rata basis, according to the official average daily attendance for the previous school year and 15 percent to Gadsden State Community College. Each school board shall receive and administer the proceeds of the sales and use taxes and shall have the authority to issue bonds, secure financing, and retire debt.

(6) Thirty-five percent of the remaining 50 percent to the Etowah County General Fund for juvenile detention, debt retirement, and public safety.

(7) Nine percent of the remaining 50 percent to the Etowah County Community Development Committee.

(8) Three percent of the remaining 50 percent to the Etowah County Library committee.

(9) Three percent of the remaining 50 percent is to be shared equally among county volunteer fire departments.

Section 4. There is created the Etowah County Community Development Committee. Each member of the Etowah County Legislative Delegation shall appoint one member to the committee. The Etowah County Administrator shall serve as a nonvoting member of the committee. The committee shall receive and administer the tax proceeds pursuant to this act. The committee shall have the authority to issue bonds, secure financing, and retire debt.

Section 5. There is created the Etowah County Library Committee. Each member of the Etowah County Legislative Delegation shall appoint one member to the committee. The Etowah County Administrator shall serve as a nonvoting member of the committee. The committee shall receive and administer the tax proceeds pursuant to this act. The committee shall have the authority to issue bonds, secure financing, and retire debt.

Section 6. There is created the Etowah County Sales Tax Account. The proceeds of the sales tax shall be deposited into the Etowah County Sales Tax Account and distributed according to this act. In the first year of each quadrennium the Legislative

Delegation of Etowah County may redefine the distribution of the sales and use tax proceeds by legislative act. The redefining of funds for distribution shall not reduce the amount of revenue needed to meet the obligations of existing bonded indebtedness authorized by this act.

Section 7. The sales and use tax shall remain in effect until December 31, 2007, unless a majority of the qualified electors of Etowah County vote in favor of the continuation of collection of the sales and use tax in a referendum held at the same time as the general election in November of 2006. Notice of the referendum shall be given by the Judge of Probate of Etowah County, which notice shall be published. On the ballots to be used at the election, the proposition to be voted on shall be state substantially as follows:

"Do you favor the continuation of the additional sales and use tax authorized to be levied by Act No. (insert the number of this act) of the 1995 Regular Session?"

If a majority of the electors voting on the issue vote affirmatively, this act shall continue in full force and effect past December 31, 2007. If a majority of votes cast are negative, this act shall have no further effect past December 31, 2007. The Judge of Probate of Etowah County shall certify the results of the election to the Secretary of State and to the Etowah County Commission.

Section 8. The provisions of this act are severable. If any part of this act is declared unconstitutional, the declaration shall not affect the part which remains.

Section 9. All laws or parts of laws which conflict with this act are hereby repealed.

Section 10. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on June 30, 1995 without approval by the Governor.

Act No. 95-285 S. 475 – Senator Denton

AN ACT

Relating to Lauderdale County; to amend Act No. 79-351, S. 181 of the 1979 Regular Session (Acts 1979, p. 565); to further provide for the fee of the Judge of Probate for celebrating the rites of matrimony; and to provide retroactive effect.

Be It Enacted by the Legislature of Alabama:

Section 1. Act No. 79-351, S. 181 of the 1979 Regular Session (Acts 1979, p. 565), is amended to read as follows:

"Section 1. The Judge of Probate of Lauderdale County, is authorized to charge a fee of seven dollars and fifty cents ($7.50) for celebrating the rites of matrimony and may retain the fee for his or her personal use. This fee is in addition to any salary provided by law."

Section 2. The provisions of this amendatory act are retroactive to July 1, 1984, and any actions of the judge of probate taken related to the fee for celebrating the rites of matrimony in compliance with this amendatory act are ratified and confirmed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on June 30, 1995 without approval by the Governor.

Act No 95-286 H. 233 – Rep. Fuller

AN ACT

To provide for a FY 1994-95 supplemental General Fund appropriation in the amount of $13,750,000 to various state agencies; to reduce the FY 1994-95 General Fund appropriation to various state agencies by $2,817,433; to remove an earmarking of $300,000 for Department of Corrections; to provide for a supplemental appropriation to the Department of Corrections for $4,500,000 from Corrections' Miscellaneous Revenues; to provide specification for the Department of Aeronautics appropriations; to provide a supplemental appropriation in the amount of $15,000 from the Social Work Examiners Fund to the Board of Social Work Examiners; to provide a supplemental appropriation of $60,000 from the Veterinary Medical Examiners Fund to the Board of Veterinary Medical Examiners; to provide a supplemental appropriation to the Alabama Department of Transportation in the amount of $21,604,827 from the Public Road and Bridge Fund; to provide for a supplemental appropriation to the Department of Public Safety in the amount of $1,500,000 from Public Road and Bridge Fund and in the amount of $400,000 from the Automated Fingerprint Identification System Fund for the fiscal year ending September 30, 1995; to provide a supplemental appropriation to the Tennessee Valley Exhibit Commission in the amount of $110,000 from the TVA Exhibit Commission Fund; to provide a supplemental appropriation to the Home Builders Licensure Board from the Home Builders Recovery Fund in the amount of $300,000; to reduce the FY 1993-94 Capital Outlay General Fund appropriation to the Farmers' Market Authority by $224,362; to reduce the FY 1993-94 Capital Outlay General Fund appropriation to the Alabama Indian Affairs Commission by $150,000; to reduce the FY 1992-93 Capital Outlay General Fund appropriation to the Farmers' Market Authority by $85,205; to amend Act 94-486, specifically the Unified Judicial System conditional appropriation language by reducing the amount of the conditional appropriation; to provide a supplemental appropriation to the District Attorneys in the amount of $25,000 from the State General Fund; to provide a supplemental appropriation to the Alabama Board of Athletic Trainers

from the Athletic Trainers Fund in the amount of $35,000; to remove the requirement of a $2,000,000 transfer from the Alcoholic Beverage Control Board to the Department of Public Safety; to provide a supplemental appropriation from the Farmers' Market Authority Fund to the Farmers' Market Authority in the amount of $50,000; to amend Act 94-486, specifically the Public Service Commission, under Administrative Services Program by increasing the transfer to the State General Fund; to provide a supplemental appropriation in the amount of $630,000 from the Public Service Commission Fund to the Public Service Commission; to appropriate the sum of $150,000 from the Multiple Needs Children Fund to the Alabama Children's Services Facilitation Team; to amend Act 94-486, specifically the appropriation for the Alabama Agriculture Museum Board clarifying the purposes for which the appropriation was made; to provide for restrictions on inter-agency transfers, of any type, of any of the funds appropriated under the provisions of this act; and to provide for an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to all other appropriations heretofore or hereafter made, there is hereby appropriated to the following agencies the following amounts from the State General Fund for the fiscal year ending September 30, 1995:

Department of Corrections 5,000,000
Attorney General.....1,200,000
Ethics Commission.....250,000
Department of Agriculture
and Industries 1,100,000
$1,000,000 to be used for the
Boll Weevil Eradication Program
and $100,000 to be used for the Poultry
Diagnostic Laboratory
Unified Judicial System.....1,750,000
Department of Youth Services 2,000,000
To be used to continue the
funding of Juvenile Probation
Officers subsidy program.
Department of Human Resources 2,450,000

Section 2. The appropriations made in Act No. 94-486 passed in the 1994 Regular Session to the following agencies from the State General Fund are hereby reduced by the following amounts for the fiscal year ending September 30, 1995:

Forestry Commission 200,000
Department of Transportation 643,959
Alabama Development Office 500,000
Department of Conservation 300,000

Department of Finance 200,000
Farmers' Market Authority-
Capital Outlay 136,646
Agriculture and Industries 148,500
Veterans Affairs 72,287
Commission on Aging 70,000
Military Department 41,500
Emergency Management Agency 30,000
Registration of Voters 100,000
Election of Voters 100, 000
Fair Trial Tax Transfer 274,541

Section 3. The appropriation made in Act No. 94-486 passed in the 1994 Regular Session to the Department of Corrections, Institutional Services Corrections Program in the amount of $300,000 is no longer mandated to be expended for boot camp expenditures.

Section 4. In addition to all other appropriations heretofore or hereafter made, there is hereby appropriated $4,500,000 to the Department of Corrections from Corrections' Miscellaneous Revenues for the fiscal year ending September 30, 1995.

Section 5. The appropriation made in Act No. 94-486 passed in the 1994 Regular Session to the Department of Aeronautics, Airport Improvement Program is hereby Estimated and can be used only as grants awarded by the Alabama Aeronautics Commission for the general promotion, advancement, education and safety of aeronautics and for the improvement of airports or other aeronautics facilities in the state of Alabama.

Section 6. In addition to all other appropriations heretofore or hereafter made, there is hereby appropriated from the Social Work Examiners Fund to the Board of Social Work Examiners the sum of $15,000 for the fiscal year ending September 30, 1995.

Section 7. In addition to all other appropriations heretofore or hereafter made, there is hereby appropriated from the Veterinarian Medical Examiners Fund to the Board of Veterinary Medical Examiners the sum of $60,000 for the fiscal year ending September 30, 1995.

Section 8. In addition to all other appropriations heretofore or hereafter made, there is hereby appropriated to the Alabama Department of Transportation the sum of $21,604,827 from the

Public Road and Bridge Fund, $20,104,827 of which is to be used for Federal Aid Matching and $1,500,000 to be used for transfer to the Department of Public Safety for Traffic Law Enforcement for the fiscal year ending September 30, 1995.

Section 9. In addition to all other appropriations heretofore or hereafter made, there is hereby appropriated to the Department of Public Safety the amount of $1,500,000 as a transfer from the Public Road and Bridge Fund and the amount of $400,000 from the Automated Fingerprint Identification System Fund for the fiscal year ending September 30, 1995.

Section 10. In addition to all other appropriations heretofore or hereafter made, there is hereby appropriated $110,000 to the Tennessee Valley Exhibit Commission from the Tennessee Valley Exhibit Commission Fund for the fiscal year ending September 30, 1995.

Section 11. In addition to all other appropriations heretofore or hereafter made, there is hereby appropriated $300,000 to the Home Builders Licensure Board from the Home Builders Recovery Fund for the fiscal year ending September 30, 1995.

Section 12. The appropriation made in Act No. 93-771 passed in the 1993 Regular Session to the Farmers' Market Authority for Capital Outlay from the State General Fund is hereby reduced by the sum of $224,362 for the fiscal year ending September 30, 1995.

Section 13. The appropriation made in Act No. 93-771 passed in the 1993 Regular Session to the Alabama Indian Affairs Commission from the State General Fund is hereby reduced by the sum of $150,000 for the fiscal year ending September 30, 1995.

Section 14. The appropriation made in Act No. 92-621 passed in the 1992 Regular Session to the Farmers' Market Authority for Capital Outlay from the State General Fund is hereby reduced by the sum of $85,205 for the fiscal year ending September 30, 1995.

Section 15. In addition to all appropriations made heretofore or hereafter, there is hereby appropriated the sum of $50,000 from the Farmers' Market Authority Fund to the Farmers' Market Authority for the fiscal year ending September 30, 1995.

Section 16. The conditional appropriation language relating to court costs made in Act 94-486 passed in the Regular Session of 1994 to the Unified Judicial System from the State General Fund is hereby amended as follows:

"Of the above appropriation for the Court Operations Program, $750,000 shall be conditioned upon deposits to the State General Fund from court costs and fines equaling or exceeding $40,500,000 for the 1994-95 fiscal year. The conditional appropriation of $750,000 may be released on a quarterly basis if the Director of Finance certifies each quarter that deposits to the State General Fund from court costs and fines are being deposited at the rate necessary to reach $40,500,000 by September 30, 1995. During any quarter the Director of Finance may, in addition to certifying and releasing funds for that quarter, certify and release funds for any previous quarter for which he did not certify and release funds."

Section 17. In addition to all appropriations heretofore or hereafter made, there is hereby appropriated $25,000 to the District Attorneys from the State General Fund for use in the District Attorney's Office in the 33rd Circuit.

Section 18. In addition to all other appropriations heretofore or hereafter made, there is hereby appropriated $35,000 to the Alabama Board of Athletic Trainers from the Athletic Trainers Fund for the fiscal year ending September 30, 1995.

Section 19. The transfer of $2,000,000 from the Alcoholic Beverage Control Board to the Department of Public Safety made in Act No. 94-486 passed in the 1994 Regular Session is no longer mandated to be transferred. Furthermore, the appropriation to the Department of Public Safety from the ABC transfer is reduced $2,000,000.

Section 20. The appropriation and transfer language made in Act No. 94-486 passed in the 1994 Regular Session to the Public Service Commission under the "Administrative Services Program" is hereby amended to read as follows:

"The above appropriation includes a transfer to the State General Fund of $2,130,000."

Section 21. In addition to all other appropriations heretofore or hereafter made, there is also appropriated to the Public Service Commission the sum of $630,000 from the Public Service Commission Fund for the fiscal year ending September 30, 1995.

Section 22. There is hereby appropriated from the Multiple Needs Children Fund to the Alabama Children's Services Facilitation Team the sum of $150,000 for the fiscal year ending September 30, 1995.

Section 23. It is the intent of the Legislature, that twenty days before any inter-agency transfers occur, of any type, including contracting, of any of the funds appropriated in this act, the

agency transferring these funds shall notify, in writing, the Chairman of the House Ways and Means Committee and the Chairmen of the Senate Finance and Taxation Committee.

Section 24. It is the intent of the Legislature that the appropriation made in Act 94-486 passed in the 1994 Regular Session to the Alabama Agriculture Museum Board may be used for Capital Outlay purposes by the Board.

Section 25. All laws or parts of laws which conflict with this act are hereby repealed.

Section 26. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved June 30, 1995

Time: 4:30 P.M.

Act No. 95-287 S. 424 – Senator Windom

AN ACT

To further provide for the management of Alabama's marine resources; to amend Section 9-12-111, Code of Alabama 1975, relating to certain lengths of certain seines and nets, so as to further regulate the possession thereof, to provide for certain lengths thereof, to further regulate widths of certain trawls, to provide for certain confiscation and forfeiture, and to provide for certain criminal liability; to amend Section 9-12-113, Code of Alabama 1975, relating to certain fishing licenses, so as to further provide for certain fees and permits, to regulate the transfer of certain net or seine permits, to provide for certain additional requirements to be permitted, to restrict the number of permits issued and require certain decals or placards, to restrict the number of nets or seines in use at any one time, to further regulate and require the presence of the permittee in certain conditions, certain possession, and certain net or seine identification, to specify to whom certain licenses or permits may be issued and further define "nonresident," to further provide for forfeiture and alternatives thereto, to further define possession of game fish, to specify certain saltwater game fish and provide for a certain tagging system, to provide penalties for violation of certain regulations, to further provide as to certain penalties and as to certain criminal liability and to provide for a point system whereby certain licenses or permits shall be revoked under certain circumstances; to prohibit selling, buying, or trading or bartering in certain saltwater game fish and specify penalties and certain criminal liability; to amend Section 9-12-115, Code of Alabama 1975, relating to the filing of certain dealer reports, so as to further provide for and require seafood dealer reporting; to provide for certain landing and reporting requirements for certain saltwater finfish and seafood products commercially harvested in Alabama, to provide for the establishment by regulation of certain reporting procedures, to provide for certain revocation procedures, and to specify penalties and certain criminal liability; to amend Section 9-12-125, Code of Alabama 1975, relating to the seafood dealer's license, so as to further provide for the requirements and fees therefor, to further regulate and provide for the licensing of certain vehicles from which seafood is bought or sold, and to further provide for penalties; and to provide for effective dates.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 9-12-111, Code of Alabama 1975, as last amended, is hereby amended to read as follows:

"§9-12-111.

"It shall be unlawful for any person, firm or corporation to have in possession on board a boat in the waters of Alabama or in use, any seine, trammel net, gill net or other device for the taking or catching of saltwater fish or other seafoods having in length on the cork or main top line more than 2,400 feet except on purse seines where the commissioner of conservation and natural resources may set additional length by regulation. When two or more nets are joined together, they shall be considered as one, and the total length thereof must not exceed the above limitation. All nets, seines, or trawls exceeding the prescribed length or width as set by law or regulation may be confiscated and held as evidence, and upon conviction, the nets, seines, or trawls shall be forfeited to the Department of Conservation and Natural Resources which shall dispose of forfeited items as it deems advisable. Any person violating this section or any regulation promulgated pursuant to this section shall be strictly liable and it shall not be necessary to prove any criminal intent for conviction. It shall be unlawful for any person, firm, or corporation to have in use any trawl or trawls, for the taking of shrimp or other seafoods, the total width of which exceeds the measurement as set by regulation."

Section 2. Section 9-12-113, Code of Alabama 1975, as last amended, is hereby amended to read as follows:

"§9-12-113.

"(a) Each license or permit issued by the Commissioner of Conservation and Natural Resources or his or her authorized agent shall state the name of the applicant.

"(1) If the applicant is a resident of the state of Alabama, the applicant shall pay the following fees:

"a. One hundred dollars ($100) for commercial hook and line fishing.

"b. Three hundred dollars ($300) on each net or seine permit, plus an additional five hundred dollars ($500) per permit for the taking of Roe Mullet and Spanish Mackerel, as defined by regulation of the Department of Conservation and Natural Resources.

"c. One thousand five hundred dollars ($1,500) for each purse seine license.

"(2) Nonresidents shall pay the following fees:

"a. Two hundred dollars ($200) for commercial hook and line fishing.

"b. One thousand five hundred dollars ($1,500) for each net or seine permit, plus an additional two thousand five hundred dollars ($2,500) per permit for the taking of Roe Mullet and Spanish Mackerel, as defined by regulation of the Department of Conservation and Natural Resources.

"c. Three thousand dollars ($3,000) for each purse seine license except where the nonresident of the State of Alabama is a resident of a state which has a reciprocal fishing agreement with the State of Alabama, in which case the fee shall be the same as the fee for an Alabama resident in that state.

"(b) The net and seine permits provided for pursuant to subdivision (1) of subsection (c) shall not be transferable from one person to another for a period of three years from the effective date of the act amending this code section or until a transfer system is developed by departmental regulation, except in the case of proven physical hardship, as determined within the sole discretion of the Director of the Marine Resources Division. The Department of Conservation and Natural Resources shall by regulation establish a system for the transfer of the permits within a three year period. In establishing the system, the department shall provide that there shall be no financial gain realized by the transferor of the permits. The net and seine permits provided for pursuant to subdivision (2) of subsection (c) shall not be transferable under any circumstances, including physical hardship, and shall not be transferred to any other applicant by the department.

"(c) In addition to all other requirements to be permitted pursuant to this section, except as otherwise provided for residents age 62 years or older under certain conditions as may be subsequently determined by the department, all applicants for net and seine permits shall submit the following: (1) proof that the applicant purchased a license under this section in at least two of the five years during the period of 1989 through 1993 and proof, in the form of unamended original income tax returns including Alabama state income tax returns for all applicants in accordance with procedures established by departmental regulations, that the applicant recognized his or her applicable Alabama income and derived at least 50 percent of his or her gross income from the capture and sale of seafood species in at least two of the five years during the period of 1989 through 1993 and in subsequent years for annual renewal; or (2) proof that the applicant purchased a license under this section every year from 1989 through 1993, and, unless

exempt from filing under the Alabama income tax law, proof that the applicant filed an Alabama income tax return from 1989 through 1993, and in subsequent years for annual renewal. For the license year beginning October 1, 1997, only, any permittee who obtained a net and seine permit pursuant to subdivision (2) may obtain a permit transferable in the same manner as a permit pursuant to subdivision (1) upon submitting proof in the form of unamended original income tax returns including Alabama state income tax returns for all applicants in accordance with procedures established by departmental regulations, that the applicant recognized his or her applicable Alabama income and derived at least 50 percent of his or her gross income in 1996 from the capture and sale of seafood species, provided the permittee must meet the gross income requirements to continue to renew a permit issued pursuant to subdivision (1) in subsequent years. A permittee who receives a permit pursuant to the provision in the preceding sentence may not receive a permit pursuant to subdivision (2) thereafter. The Alabama Department of Revenue shall verify, upon request, to the Director of the Marine Resources Division of the Alabama Department of Conservation and Natural Resources the income tax return of the applicant if the applicant authorizes the release of the information. Authorization by the applicant to release the information shall be a prerequisite for a permit.

"(d) Only one permit shall be issued per individual. The department shall issue each permittee one decal or placard which shall be visibly displayed on the permittee's designated vessel or vessels in accordance with regulations promulgated by the Department of Conservation and Natural Resources. A permittee shall have only one net or seine in use at any time and shall be present and have the permit in his or her possession when the net or seine is in use or in transit, provided the presence of the permittee shall not be required when the boat is docked, refueling, or at a launch site.

"(e) All nets and seines, except purse seines, and seines 25 feet or less, shall bear a tag showing the name and number of the permittee and any other identification as required by regulation, when the nets or seines are in use or on board a boat in the waters of Alabama. A designated vessel of 45 feet in length or less, as measured down the centerline, may have properly marked nets which are the property of the owner of the designated vessel on board the vessel but no fish may be in contact with the nets and provided that the vessel is not in motion and is moored or anchored when the permittee is not present. An initial designated vessel may be replaced by another vessel owned by the permittee that is no longer than 110 percent of the original vessel subject in

all events to a maximum of 45 feet except in certain cases which may be waived by the Director of the Division of Marine Resources upon presentation of evidence that a permittee owned a vessel longer than 45 feet prior to the passage of this amendatory act.

"(f) All permits issued shall be issued to individual persons only. A purse seine license may be issued to a person, firm, or corporation. A nonresident, as mentioned in this section, for the purposes of all permits issued, is defined to be any person who has not been continuously domiciled in this state for more than one continuous year prior to the date of the issuance of the license and for the purpose of purse seine licenses, a nonresident is defined to be any person, firm, or corporation who has not been domiciled in this state for more than one continuous year immediately prior to the date of the issuance of the license.

"(g) All licenses and permits issued pursuant to this section shall expire on September 30 thereafter irrespective of the date of the issuance of the same.

"(h) All nets and seines fished in an illegal manner, or in an illegal area, are declared to be a nuisance and may be confiscated, along with the entire catch, boat, motor, and any other fishing gear in the violator's possession, and all of the items may be held as evidence by any agent of the Department of Conservation and Natural Resources. After conviction of the person in whose possession the device or items were found or when the operator of the device has not been determined after a period of 30 days, the device or items shall be forfeited to the Department of Conservation and Natural Resources which shall destroy or otherwise dispose of the device or items as it shall deem advisable or in lieu of forfeiture, the court may impose additional fines.

"(i) All game fish taken by nets or seines under this law shall be immediately returned to the waters where they were taken with the least possible injury to the fish. Possession of game fish in violation of this paragraph will be considered as using a net or seine in an illegal manner. Saltwater game fish are defined as follows: Spotted Seatrout (Cynoscion nebulosus); Red Drum (Sciaenops ocellata); Tarpon (Megalops atlanticus); and those species designated by regulation of the Department of Conservation and Natural Resources. The department shall by regulation to the extent possible establish a tagging system to regulate importation or sale of the above listed species or species added by regulation.

"(j) In addition to any other penalties provided in this section, a violation of this section or any regulation promulgated pursuant to this section, shall be a Class B misdemeanor punishable as

provided by law; provided, however, that there shall be a mandatory minimum fine of $1,000 for first offenses of utilizing a net or seine without the required license or permit hereunder, and any subsequent violation of subsection (a) committed within a three-year period of the date of conviction shall be a Class A misdemeanor, punishable by a mandatory minimum fine of two thousand dollars ($2,000) and a mandatory minimum imprisonment of 10 days. Any person violating this section or any regulation promulgated pursuant to this section shall be strictly liable and it shall not be necessary to prove any criminal intent for conviction.

"A 10-point system is also hereby established to provide that in the event a person is convicted of the following offenses as set out in (1) - (5) below in a manner so as to acquire ten or more points within a three year period the department shall automatically and permanently revoke all licenses or permits issued and the licenses, permits, and any decal issued to that person shall be surrendered immediately by the licensee or permittee to the Director of the Division of Marine Resources upon conviction. Points shall be considered for a period of three years from the date of conviction and shall be as follows:

"(1) Sale, purchase, trade or barter of game fish, 10 points.

"(2) Fishing in closed areas, 5 points.

"(3) Retention of game fish, 5 points.

"(4) Fishing with improperly marked gear, 4 points.

"(5) Points for any other offense established or designated by regulation of the Department of Conservation and Natural Resources, shall be as provided in the regulation relating to the prohibitions of this section."

Section 3. No person shall do, or attempt to do, any of the following: sell, trade, or barter, or buy, trade for, or barter for, any saltwater game fish specified in Section 9-12-113 or by regulation of the Department of Conservation and Natural Resources. The first offense of this section shall be a Class B misdemeanor with a mandatory minimum fine of one thousand dollars ($1,000). Any subsequent offenses shall be a Class A misdemeanor with a mandatory minimum fine of two thousand dollars ($2,000), plus forfeiture of vehicle used in transporting the game fish. Any person violating this section or any regulation promulgated pursuant to this section shall be strictly liable and it shall not be necessary to prove any criminal intent for conviction.

Section 4. Section 9-12-115, Code of Alabama 1975, as last amended, is hereby amended to read as follows:

"§9-12-115.

"Each and every person, firm, or corporation holding a seafood dealer's license issued by the commissioner of conservation and natural resources or his or her authorized agent shall under oath make a monthly report to the Director of the Marine Resources Division of the department of conservation and natural resources on blanks provided for that purpose by the director, which report shall show in detail the weight in pounds of each species of fish purchased from commercial fishermen during the preceding month. The reports required by this section shall be in the hands of the director by the tenth day of each month for the immediately previous month, and willful failure or refusal to make the report by the required date or upon notification by the director that the report has not been received or the filing of a false report shall be deemed a violation of this section, and the commissioner of conservation and natural resources shall have the discretion to suspend or cancel the dealer's license until the provisions of this section are complied with, and the license shall not be used by any person, firm, or corporation until the dealer's license is restored by the commissioner of conservation and natural resources. The commissioner may, by regulation, require reports on a more frequent basis for those species managed under a quota system, with the same penalty provisions applicable for failure or refusal to report. The commissioner may by regulation, require the reports to be formatted to comply with gulf-wide trip tickets."

Section 5. All saltwater finfish commercially harvested in the State of Alabama, except those lawfully taken by purse seine, shall be landed in this state and reported through a properly licensed Alabama seafood dealer. Other seafood products commercially harvested in this state shall be landed in this state, or in lieu thereof any subject person shall comply with any reporting procedures established by regulation of the Department of Conservation and Natural Resources. The Commissioner of the Department of Conservation and Natural Resources is hereby authorized to promulgate regulations which provide for and require reporting procedures for both resident and nonresident Alabama commercial fishermen who sell or land seafood products other than finfish outside the State of Alabama. Upon determination by the Commissioner of the Department of Conservation and Natural Resources that any subject person has failed to report as required, the commissioner may revoke any relevant commercial seafood license or permit he or she deems appropriate. Any person who violates this section or any regulation promulgated pursuant to this section, shall be guilty of a Class B misdemeanor, and upon conviction, shall be punished as provided in Sections 13A-5-7 and 13A-5-12, Code of

Alabama 1975. Any person so convicted shall be fined not less than one thousand dollars ($1,000). Any person violating this section shall be strictly liable and it shall not be necessary to prove any criminal intent for conviction.

Section 6. Section 9-12-125, Code of Alabama 1975, as last amended, is hereby amended to read as follows:

"§9-12-125.

"Any person, firm, or corporation who engages in the selling, brokering, trading, bartering, or processing of any fresh or frozen seafood, whether on a consignment basis or otherwise, is a seafood dealer and shall purchase a seafood dealer's license for a fee of two hundred dollars ($200) for Alabama residents domiciled for a period of more than one continuous year immediately preceding date of issuance and four hundred dollars ($400) for nonresidents except for residents of states which charge Alabama residents in excess of four hundred dollars ($400) for the activity, in which case it shall be the amount the other state charges. To obtain the license, all entities other than brokers shall have and present proof of a business license from the location of the business, a tax identification number, and the appropriate seafood processing health permit. This license is not required by nonresident seafood dealers buying from or selling to a licensed Alabama seafood dealer or licensed commercial fishermen when selling their catch to a licensed Alabama seafood dealer nor by restaurants where the seafood is cooked and sold for consumption on or off its premises. Restaurants shall not purchase seafoods from any person, firm, or corporation that is not licensed to sell seafoods in Alabama. If the licensee owns or operates more than one place of business, then additional dealer's licenses must be purchased for each separate place of business, providing the location of each. A vehicle used solely for transporting seafoods to or from an Alabama seafood dealer is not considered a place of business. Each vehicle from which seafood is sold to or purchased from any person, firm, or corporation other than an Alabama seafood dealer, is a place of business and shall be licensed under this section. The seafood dealer shall purchase a license for each vehicle for a fee of one hundred dollars ($100) per license and the operator of the vehicle shall have the original license in his or her possession when selling or buying seafood from that vehicle. Seafood dealers may purchase seafoods only from commercial fishermen validly licensed in Alabama, Alabama seafood dealers, and any nonresident seller who is validly licensed to sell seafoods under the laws of that state. It shall be unlawful for any person, firm, or corporation to sell, broker, trade, barter, or process seafoods as provided for in this section without first purchasing a seafood dealer's license. Any

person, firm, or corporation violating this section shall, upon conviction, be guilty of a Class A misdemeanor, with a minimum mandatory fine of one thousand dollars ($1,000) for first offenses, two thousand five hundred dollars ($2,500) for second offenses within three years of the date of the first conviction, and five thousand dollars ($5,000) and a mandatory jail sentence of 10 to 30 days for conviction of any subsequent offenses within three years of the date of the first conviction."

Section 7. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law; provided, however, that Sections 2 and 6 of this act shall be effective October 1, 1995. Upon the effective date of this act no additional net or seine licenses, pursuant to Section 9-12-113 of the Code of Alabama 1975, shall be issued for the fiscal year 1994-95 license year.

Approved June 30, 1995

Time: 5:05 P.M.

Act No. 95-288 S. 28 – Senator Mitchell

AN ACT

Relating to Crenshaw County; amending Sections 1 and 2 of Act No. 775, S. 158, 1975 Regular Session (Acts 1975, p. 1563), as amended by Act No. 81-1106, 1981 Special Session (Acts 1981 Special Session, p. 369), providing for the issuance fee and distribution of the fee for pistol permits issued by the sheriff, to increase the fee and provide further for the distribution of the fee.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 1 and 2 of Act No. 775, S. 158 of the 1975 Regular Session (Acts 1975, p. 1563), as amended, are further amended to read as follows:

"Section 1. In Crenshaw County the fee for issuance of a permit to carry a pistol in a vehicle or concealed on or about the person as provided in Section 13A-11-75 of the Code of Alabama 1975, shall be fifteen dollars ($15), which shall be collected by the sheriff.

"Section 2. Six dollars ($6) of each fee collected under Section 1 of this act shall be paid into the county treasury and the remaining nine dollars ($9) of each fee shall be deposited by the sheriff of Crenshaw County in any bank located in Crenshaw County, into a fund known as the 'Sheriff's Pistol Permit Fund.' The proceeds

paid into the fund shall be used only for law enforcement training, supplies, and equipment."

Section 2. This act shall be effective October 1, 1995.

Approved July 6, 1995

Time: 8:30 A.M.

Act No. 95-289 S.J.R. 110 – Senator Bedford

SENATE JOINT RESOLUTION

COMMENDING JANE HOLLEY BURNETT OF VERNON, ALABAMA, ON THE OCCASION OF HER RETIREMENT.

WHEREAS, the Legislature of Alabama notes with great pride and pleasure the retirement of Jane Burnett of Vernon, Alabama, from the Lamar County Board of Education, June 30, 1995; and

WHEREAS, Jane Burnett, whose distinguished career with the Superintendent's office spanned 30 years, graduated from Lamar County High School, attended Auburn University for three years, and then began service with Daniel Construction Company in Birmingham, Alabama, until 1961; and

WHEREAS, Jane is furthermore a devoted wife to her husband, Jim Burnett, whom she married in 1957, and they are the proud parents of two fine sons, Anthony and Joseph; and

WHEREAS, Jane Burnett is well-deserving of this special recognition in tribute to the many years she has dedicated to the education of our youth in the State of Alabama; she is a credit to her family, community, and this state, and will be greatly missed; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and warmest congratulations to Mrs. Jane Holley Burnett of Vernon, Alabama, on the occasion of her retirement on June 30, 1995, following 30 years of service, and do furthermore direct that a copy of this resolution be provided with best wishes for every future happiness and success.

Approved July 6, 1995

Time: 8:31 A.M.

Act No. 95-290 S.J.R. 111 – Senator Bedford

SENATE JOINT RESOLUTION

DESIGNATING H. 195 OF THE 1995 REGULAR SESSION THE "KEN GUIN ALABAMA COAL PRODUCTION ACT."

WHEREAS, Representative Ken Guin of Carbon Hill has worked diligently, patiently, and tirelessly for the passage of H. 195 of the 1995 Regular Session, which provides incentives for corporations purchasing coal that is mined and used in Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That H. 195 of the 1995 Regular Session, when enacted, shall be designated and may be cited as the "Ken Guin Alabama Coal Production Act."

Approved July 6, 1995

Time: 8:32 A.M.

Act No. 95-291 S.J.R. 114 – Senators Mitchell, Dial, Ghee, Little, and Hill

SENATE JOINT RESOLUTION

RECOGNIZING BOBBY ALLISON AND RICHARD CHILDRESS, AND INVITING THEM TO ADDRESS A JOINT SESSION OF THE LEGISLATURE.

WHEREAS, Richard Childress and Alabama's own Bobby Allison, and their respective racing organizations, have played a major role in the NASCAR industry in Alabama and the nation, successfully competing both as drivers and as owners; and

WHEREAS, over the past three decades these two racing legends have witnessed the growth of NASCAR from its infancy to the megasport that it is today, particularly the emergence of the Winston Cup Series as the premier event in NASCAR racing; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That it is with special personal pleasure that we hereby extend a most cordial invitation to Bobby Allison and Richard Childress to address a joint session of the Alabama Legislature to be called on July 11, 1995, at 1:30 p.m.

BE IT FURTHER RESOLVED, That by copy of this resolution, Mr. Allison and Mr. Childress be advised of our invitation and of our hopeful anticipation of their acceptance.

Approved July 6, 1995

Time: 8:33 A.M.

Act No. 95-292 S.J.R. 115 – Senators Mitchell, Dial, Hill, Little, and Ghee

SENATE JOINT RESOLUTION

HONORING BOBBY ALLISON OF HUEYTOWN, ALABAMA, FOR OUTSTANDING ACHIEVEMENTS.

WHEREAS, it is with great pride and utmost pleasure that the Alabama Legislature honors Bobby Allison for tremendous accomplishments in the field of NASCAR competition; and

WHEREAS, the sport of NASCAR racing is a growing industry of Alabama bringing thousands of fans to enjoy the action every year, and the State of Alabama is proud to have Bobby Allison, "The Legend" of NASCAR, as a resident of our own Hueytown community; and

WHEREAS, Bobby Allison has made invaluable contributions to the sport like no other, as a driver and now car owner; he is the 6-time winner of the NASCAR Most Popular Driver Award, 3-time winner and 6-time runner-up of the Daytona 500, 5-time Winston Cup Series runner-up, 2-time Olsonite Driver of the Year, and the 1983 Winston Cup Series and the 1986 IROC Series Champion, and

WHEREAS, with 84 lifetime victories and over 600 short track victories, Bobby Allison has been inducted into the National Motorsports Press Association Hall of Fame, and the Eastern Motorsports Press Association Hall of Fame; and

WHEREAS, Bobby Allison, who retired in 1988, is now a car owner sponsored by Straight Arrow, and the Bobby Allison Motorsports Team continues to shine in the NASCAR competitions; and

WHEREAS, Bobby Allison and the Allison family are well-deserving of this special recognition in tribute to their outstanding hard work, dedication, and countless notable accomplishments to the tradition of NASCAR racing and the State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and paramount praise to Bobby Allison, and do furthermore direct that a copy of this resolution be provided with sincere best wishes for every future happiness and as evidence of our esteem and warmest personal regard.

Approved July 6, 1995

Time: 8:34 A.M.

Act No. 95-293 S.J.R. 116 – Senators Mitchell, Dial, Little, Hill and Ghee

SENATE JOINT RESOLUTION

HONORING CHAMPIONSHIP RACE CAR OWNER AND LEGEND RICHARD CHILDRESS AND WELCOMING HIM TO ALABAMA.

WHEREAS, it is with special pleasure that the Alabama Legislature welcomes to this assemblage championship race car owner and legend Richard Childress; and

WHEREAS, over the past 30 years, NASCAR and the famed Winston Cup Series has grown and flourished as a megasport industry in Alabama and the nation, and Richard Childress has played a major role in this evolution, both as an independent driver, and as a race car owner over the last 15 years; and

WHEREAS, Richard Childress is the captain of and the inspiration behind the Champion GM Goodwrench Service Team which has won 56 Winston Cup races and six championships in 9 years, and is hailed as the "Dynasty Team" of the '90s in NASCAR competition; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That it is with highest commendation and tribute that we recognize and honor the legendary Richard Childress; welcome him to Alabama; and direct that he be presented a copy of this resolution as a measure of our sincere regard and esteem.

Approved July 6, 1995

Time: 8:35 A.M.

Act No. 95-294 H.J.R. 274 – Rep. Hammett

HOUSE JOINT RESOLUTION

RELATIVE TO MEETING DAYS.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That when the two houses adjourn Thursday, June 29, 1995, they adjourn to meet again on Tuesday, July 11, 1995, and when they adjourn on Tuesday they adjourn to meet again on Wednesday, July 12, 1995, and when they adjourn on Wednesday they adjourn to meet again on Thursday, July 13, 1995.

Approved July 6, 1995

Time: 8:36 A.M.

Act No. 95-295 H.J.R. 299 – Rep. Melton

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF LUCILLE WHITE FREEMAN OF BROWNSVILLE, ALABAMA.

WHEREAS, it is with a sense of great sadness and regret that the Alabama Legislature mourns the death of Mrs. Lucille White Freeman of Brownsville, Alabama, June 9, 1995, at the age of 77 years; and

WHEREAS, affectionately known as "Honey," Lucille Freeman was a dedicated wife to her husband, the late David Freeman, known as "Buddy," and the couple shared the finest Christian love and served as a shining example to all; and

WHEREAS, a staunch upholder, Lucille Freeman, who accepted Christ at an early age, was an active member of the Morning Star Baptist Church in Birmingham, Alabama, where she served as a Sunday School Teacher and on the Usher Board, until the Freeman family moved to Brownsville; and

WHEREAS, Lucille continued to serve as a fine Christian in her work as a dedicated member of St. Luke Missionary Baptist Church where she served on various boards and auxiliaries including the Sunday School, Senior Choir, and Missionary Society; and

WHEREAS, Lucille Freeman devotedly served her community as a member of the Sisters of the Eastern Star (Avondale Lodge

Number 6), and the 101 Prayer Band, to name but a few; her warm and gentle presence will be greatly missed by all with whom she was associated; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of Lucille White Freeman of Brownsville, Alabama, and extend our heartfelt sympathy to her eight sons, three daughters, thirty-three grandchildren, twenty-one great grandchildren, and other close family members and friends for whom a copy of this resolution of sincere condolence shall be provided.

Approved July 6, 1995

Time: 8:38 A.M.

Act No. 95-296 H.J.R. 303 – Rep. Millican

HOUSE JOINT RESOLUTION

AMENDING ACT 95-100, HJR 55 OF THE 1995 REGULAR SESSION ENTITLED "DESIGNATING HIGHWAY 278 IN WINSTON COUNTY AS 'LOONEY'S TAVERN PARKWAY'."

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Act No. 95-100, HJR 55 of the 1995 Regular Session "Designating Highway 278 in Winston County as 'Looney's Tavern Parkway'" is amended by deleting in its entirety paragraph one of the act and inserting a new paragraph one as follows:

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the portion of Highway 278 that extends westward from Interstate 65 in Cullman County to the Marion County line is designated as "Looney's Tavern Parkway."

BE IT FURTHER RESOLVED, That the Department of Transportation shall pay for, erect, and maintain signs which show this designation.

Approved July 6, 1995

Time: 8:39 A.M.

Act No. 95-297 H.J.R. 316 – Rep. Knight (J)

HOUSE JOINT RESOLUTION

HONORING THE WINSTON AND BETHLONIA JOHNSON FAMILY ON THE OCCASION OF THEIR FIRST FAMILY REUNION.

WHEREAS, it is with great pleasure that the Alabama Legislature welcomes the Johnson Family Reunion which is being held in Montgomery, Alabama, June 30, July 1, and July 3, 1995; and

WHEREAS, for the occasion the Johnson family has chosen the theme, "We Are the Children"; and

WHEREAS, Winston and Bethlonia Johnson, two African-Americans joined in matrimony and parents of 12 children, reared their family while working as sharecroppers in Ramer, Alabama, in Montgomery County; and

WHEREAS, Mr. and Mrs. Johnson passed a faith in God and a commitment to excellence to five generations of their descendants; and

WHEREAS, Mr. and Mrs. Johnson's descendants have excelled and contributed in the areas of business, accounting, law, dentistry, real estate, health care, literary arts, government service, and as skilled craftspersons; and

WHEREAS, more than 100 members of Mr. and Mrs. Johnson's family, representing five generations, are convening the first family reunion in Montgomery; and

WHEREAS, family members from Alabama, Florida, Georgia, Maryland, Nebraska, New York, Ohio, Oklahoma, and Virginia will attend; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby acknowledge, honor, and applaud the contributions of the family of Winston and Bethlonia Johnson on the occasion of the first Johnson Family Reunion at the family banquet on July 1, 1995, and do furthermore direct that the family receive a copy of this resolution with best wishes for many more happy years together.

Approved July 6, 1995

Time: 8:40 A.M.

Act No. 95-298 H.J.R. 305 – Rep. Morrow

HOUSE JOINT RESOLUTION

COMMENDING RAY L. AND ROY HAYES OF CHEROKEE, ALABAMA.

WHEREAS, it is with great pleasure and extraordinary pride that the Alabama Legislature recognizes Alabama's many courageous young men and women who have willingly answered when called to protect freedom and liberty at home or abroad; and

WHEREAS, two such individuals, in whom we are justly proud, are Ray L. Hayes and his twin brother, Roy Hayes, of Colbert County, who bravely served as members of the 24th Division of the Alabama National Guard during the Korean War; and

WHEREAS, as with many young men who have experienced the tragedies of war, Ray Hayes recalls vivid memories of the incident in a book soon to be released in which he thoughtfully preserves these images and experiences for posterity, along with a recounting of his service in the military, his childhood, growing up in the Riverton community, and his later life in the Cherokee community of West Colbert County; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in tribute to outstanding contributions and service to community, state, and nation, highest commendation is hereby accorded Ray L. Hayes and Roy Hayes of Cherokee, Alabama, for whom copies of this resolution shall be provided.

Approved July 6, 1995

Time: 8:41 A.M.

Act No. 95-299 H.J.R. 313 – Rep. Newton (C)

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF JOHN DARRYL MURPHY OF GREENVILLE, ALABAMA.

WHEREAS, it is with profound sorrow that the Alabama Legislature records the untimely death of John Darryl Murphy of Greenville, Alabama, on June 18, 1995, at the age of 59 years; and

WHEREAS, Mr. Murphy, who died as the result of a tragic drowning accident, had served as plant manager of Allied Signal's Greenville plant operations for the last 13 years; and

WHEREAS, a native of Brantley, Alabama, Mr. Murphy earned his B.S. degree in Industrial Management from Auburn University, and, following successive tenures of service with Sears Roebuck, Dan River Mills, and Modern Fibers in Greenville, joined Allied Signal in 1980, as manager of engineering, advancing to the position as plant manager of the local facility in 1982: and

WHEREAS, Mr. Murphy was widely recognized as one of Greenville's most prominent civic leaders, and contributed significantly toward improving the quality of life of the community and its citizens; and

WHEREAS, he was a staunch supporter of education and the local school system, and gave generously and selflessly of his time and talents in leadership and support of community affairs, including his current term as head of the Greenville Water Works and Sewer Board, and his involvement with the Greenville Jaycees, which recognized him as Community Leader of the Year in 1993: now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as we mourn his death, thanks are given for the life and service of John Darryl Murphy of Greenville, Alabama, and deepest heartfelt sympathy is hereby extended to his beloved wife, Susan Marie Samford Murphy; mother, Mrs. Evelyn Murphy; son, John Darryl Murphy, Jr.; daughter, Jean Marie Murphy Coker, and son-in-law, Gregory W. Coker; brother, Charles K. Murphy; grandchildren, Amanda Marie Coker and Michael Gregory Coker; and to other family members, for whom a copy of this resolution of sincere condolence shall be provided.

Approved July 6, 1995

Time: 8:42 A.M.

Act No. 95-300 H.J.R. 314 – Reps. Kennedy, Buskey, Clark (W), Mitchell, Gaston

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF MR. GEORGE ALVIN DICKINSON, JR., OF MOBILE, ALABAMA.

WHEREAS, it is with a sense of deep sadness and regret that the Alabama Legislature grievously mourns the death of Mr.

George Alvin Dickinson, Jr., of Mobile, Alabama, June 23, 1995; and

WHEREAS, Mr. Dickinson was a life-long and very active member of the Stewart Memorial Christian Methodist Episcopal Church where, at the time of death, he was serving as Assistant Sunday School Superintendent, Recording Steward, and a member of the Board of Christian Education; and

WHEREAS, a native of Mobile who attended Central High School, Mr. Dickinson was a graduate of Alabama State University, Mobile Branch (now Bishop State Community College), and Alabama State University, and was a beloved teacher and principal in the Mobile County Public School System; and

WHEREAS, Mr. Dickinson was a well-respected man of the community who was involved in many notable civic and religious activities such as the Hiram Lodge Number 3 F. & A. M., Oriental Consistory Number 17, Palestine Temple Number 18, Utopia Club Inc., Mobile Alumni Chapter of Kappa Alpha Psi Fraternity, and the Gulf City Lodge Number 244; and

WHEREAS, George Alvin Dickinson was indeed a warm and gracious man who donated his time to the service of others as a volunteer with Sickle Cell, Mental Health, Crime Stoppers, and the University of South Alabama Hospital, to name but a few; he will be greatly missed by the many he inspired and encouraged; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the lamentable death of Mr. George Alvin Dickinson, Jr., of Mobile, Alabama, June 23, 1995, and extend our heartfelt sympathy to his wife, Margaret W. Dickinson; one son, George Alvin, III; and other close family members and friends, including one sister, two brothers, and many nieces and nephews, for whom a copy of this resolution of sincere condolence shall be provided.

Approved July 6, 1995

Time: 8:43 A.M.

Act No. 95-301 H.J.R. 315 – Rep. Roger (J)

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF MRS. JESSIE MAE BOYKINS OF BIRMINGHAM, ALABAMA.

WHEREAS, it is with deep and abiding sorrow that the Legislature of Alabama records the death of Mrs. Jessie Mae Boykins of Birmingham, Alabama, on April 6, 1995, at the age of 68 years; and

WHEREAS, born May 23, 1926, in Benham, Kentucky, Mrs. Boykins was the fourth of ten children, and a graduate of Parker High School; and

WHEREAS, Mrs. Jessie Mae Boykins was a dearly beloved member of the Birmingham community, and a warm and gentle Christian lady whose kind deeds and unselfish service, as well as her love and concern for others endeared her to all who were privileged to know her; and

WHEREAS, in the death of Mrs. Boykins, the community, her many friends, and her loving family have indeed suffered an inconsolable loss, which leaves them sorely bereft in grief, but with memories and their hopes of reunion to sustain them; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as we bow in submission to the will of God, we give thanks for the life and service of Mrs. Jessie Mae Boykins of Birmingham, Alabama, and extend our deepest sympathy to her eight devoted daughters, Jacqueline (Henry) Scruggs, Marilyn Miller, Beverly Clemons, Ann Albert, Johnnie (Henry) Starks, Darlene (Clarence) Outsey, Janet (Kenneth) McReynolds, Evelyn Clemons; three sons, Arthur Lee, Evan, and Norman C. Boykins; two sisters, Eunice Rogers, and Etrollia Faniel; five brothers, Lovell Bonner, Arthur Lee, Howard, Allen, and Edgar Bonner; aunt, Bernice Cohill; thirty grandchildren and eighteen great-grandchildren; and to other close family members and friends, for whom a copy of this resolution of sincere condolence shall be provided.

Approved July 6, 1995

Time: 8:44 A.M.

Act No. 95-302 H.J.R. 286 – Reps. Venable, Wren, Gipson

HOUSE JOINT RESOLUTION

CREATING THE ELMORE COUNTY 2000 COMMISSION.

WHEREAS, population figures confirm Elmore County is one of the fastest growing areas of Alabama; and

WHEREAS, until only recently Elmore County was primarily a rural, agricultural county and relatively unprepared for the significant growth which has occurred; and

WHEREAS, this growth is accompanied by an increased demand for services in many areas of everyday life by Elmore County residents; and

WHEREAS, Elmore County elected officials consider it necessary to make plans for both the expanded population and the resulting need for improved services and infrastructure as the year 2000 approaches; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is created the Elmore County 2000 Commission which shall study the resources and needs of the county and make recommendations to the elected officials of Elmore County as to how those resources can best be utilized to meet present and future needs.

BE IT FURTHER RESOLVED, That each member of the Elmore County Commission shall appoint one member of the Elmore County 2000 Commission from the district he or she represents; each member of the Elmore County Legislative Delegation shall appoint one member of the Elmore County 2000 Commission from the district the legislator represents; each municipality of Elmore County shall appoint one member who resides within the municipality; and, by majority vote, the 2000 Commission may add any members it deems necessary. No member of the 2000 Commission shall receive any renumeration or expenses, and no member shall be an elected official of the county or any local government. Members shall be appointed by July 15, 1995, and the first meeting shall be called as soon as practicable by the Chair of the Elmore County Commission. At that meeting, the members of the 2000 Commission shall elect a chair, vice chair, secretary, and any other officers it deems necessary. A quorum of the 2000 Commission shall consist of a majority of the total number of members, and members may adopt rules of procedure they deem necessary.

BE IT FURTHER RESOLVED, That the 2000 Commission shall address any specific issues as requested by the appointing authority in a timely manner, and shall make a general report to each appointing authority, including its findings and recommendations, by January 31, 1996.

Approved July 6, 1995

Time: 8:45 A.M.

Act No. 95-303 S.J.R. 118 – Senators Figures, Windom, Myers, and Lipscomb

SENATE JOINT RESOLUTION

RECOGNIZING MOBILE, ALABAMA, AS AN "ALL AMERICA CITY."

WHEREAS, it is with special pleasure and pride that the Alabama Legislature notes the selection of Mobile, Alabama, as one of the nation's "All America Cities" by the National Civic League; and

WHEREAS, the coveted recognition was reflective of the long-time, dedicated hard work and commitment of the Mobile community in instituting programs and projects to improve the quality of life in the community through a united effort of the public, private and nonprofit sectors, effectively utilizing community resources, and involving broad-based and diversified citizen participation; and

WHEREAS, projects submitted included: The String of Pearls project, an extensive downtown redevelopment plan, and the Martin Luther King, Jr. Avenue redevelopment project, which included multiple new housing units, and the Weed and Seed program, a concerted effort to weed out crime and drugs; the Student Bill of Rights project whereby students from throughout the Mobile County presented those items or rights which they felt were necessary in order to receive a good education; and the Clean Campus project, where the citizens of the Maysville community cleaned and landscaped the George Hall Elementary School, and renewed their community spirit; and

WHEREAS, deserving of special recognition in this commendable effort are the 45 organization members of the All America Task Force, the 33 dedicated Mobile citizens who presented the projects to the selection committee for consideration, and Mobile United, the Mobile Press Register, and the Mobile Area Chamber of Commerce which sponsored the application; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend the Mobile community upon its selection as an "All America City," and in recognition of its outstanding accomplishments, of which we are justly proud, and do further direct that a copy of this resolution be provided as an expression of our tribute and esteem.

Approved July 6, 1995

Time: 8:46 A.M.

Act No. 95-304 S.J.R. 119 – Senator Waggoner

SENATE JOINT RESOLUTION

COMMENDING DR. ANNA VACCA OF VESTAVIA HILLS, ALABAMA.

WHEREAS, Anna Vacca, Ph.D, of Vestavia Hills, Alabama, will be installed as President of the National Federation of Business and Professional Women's Clubs, Inc. (BPW/USA), at the 76th Annual Convention in Tulsa, Oklahoma, July 1995; and

WHEREAS, BPW/USA is an organization dedicated to the education of women in business and the professions, and Dr. Vacca is only the third woman from Alabama in the history of the 76-year-old organization to serve as its National President; and

WHEREAS, Dr. Anna Vacca has excelled in her career as an educator, and her management and leadership skills have been clearly demonstrated through her outstanding contributions and service in state and national professional organizations, and in numerous community, civic, and church activities; and

WHEREAS, Dr. Anna Vacca is indeed deserving of this prestigious honor, and as the Alabama state flag flies above the National Headquarters of BPW/USA in Washington, D. C., this coming year, we are confident that she will continue to serve as a worthy goodwill ambassador for the State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend and congratulate Dr. Anna Vacca on this well-deserved honor and, by copy of this resolution, extend to her our sincere best wishes as she leads this organization of almost 80,000 working women.

BE IT FURTHER RESOLVED, That also by copy of this resolution, we further extend best wishes to all the members of BPW/USA for a rewarding, successful year of accomplishment and continued success in the years to come.

Approved July 6, 1995

Time: 8:47 A.M.

Act No. 95-305 H. 662 – Rep. Millican

AN ACT

Relating to Marion County; to amend Section 2 of Act No. 80-128, H. 603, 1980 Regular Session (Acts 1980, p. 191), to provide for the sale or disposal of property

under the control of the county commission to a municipal or other governmental entity in the county without the necessity of public auction or sealed bids.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 2 of Act No. 80-128, H. 603, 1980 Regular Session (Acts 1980, p. 191), is amended to read as follows:

"Section 2. All sales or disposal of real property, tangible personal property, equipment or other items owned by or under the control of the county commission shall be made by free and open competitive sealed bids or at public auction, except that all sales or exchanges of personal property with another municipal or other governmental entity located within Marion County may be made without the necessity of public auction or competitive sealed bids."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 6, 1995

Time: 9:00 A.M.

Act No. 95-306 H. 665 – Rep. Starkey

AN ACT

Relating to Lauderdale County; to amend the title and Section 7 of Act No. 86-411, H. 772 of the 1986 Regular Session (Acts 1986, p. 599), relating to allocation and distribution of the lodging tax; to provide further for the allocation and distribution of the lodging tax; and to establish a tourism board.

Be It Enacted by the Legislature of Alabama:

Section 1. The title and Section 7 of Act No. 86-411, H. 772 of the 1986 Regular Session (Acts 1986, p. 599) are hereby amended to read as follows:

"Relating to Lauderdale County; levying a lodging tax; establishing a tourism board; and providing for the collection and distribution of the tax.

"Section 7. (a) The Lauderdale County Treasurer shall deposit 25 percent of the net proceeds of the lodging tax collected to the account of the Florence Historical Board.

"(b) The Lauderdale County Treasurer shall deposit 75 percent of the net proceeds of the lodging tax collected to the account of the Tourism Board.

"(c) There is established a Tourism Board in Lauderdale County consisting of five members to be appointed as follows:

"(1) Two members appointed by the Lauderdale County Commission for a term of four years.

"(2) Two members appointed by the City of Florence governing body for a term of three years.

"(3) One member appointed jointly by the Lauderdale County Commission and the City of Florence governing body for a term of two years.

"Thereafter each appointee shall be appointed for a term of four years. Vacancies on the board shall be filled by the original appointing authority."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 6, 1995

Time: 9:01 A.M.

Act No. 95-307 H. 673 – Rep. Hamilton

AN ACT

Relating to Lauderdale County; providing authority for a county personnel system adopted by the Lauderdale County Commission; and providing for the authority of the county to implement policies and procedures for the county, county employees, and employees of elected officials.

Be It Enacted by the Legislature of Alabama:

Section 1. It is the purpose of this act to create and establish a county-wide personnel system in Lauderdale County for all elected county officials, except the Sheriff of Lauderdale County. The county-wide personnel system shall include equity, fairness, and compliance with all applicable state and federal laws. The establishment of the personnel system is not intended, in any way, to create a property interest, but simply a fair and equitable personnel system.

Section 2. All personnel activities required to create and administer the personnel system authorized by this act shall be based upon rules, policies, and procedures duly adopted by the Lauderdale County Commission. The personnel system established shall apply to all employees, including elected officials, except for the Sheriff of Lauderdale County. The county

commission shall have the authority to develop, adopt, and administer rules, policies, procedures, and other documents as may be necessary to implement the intent of this act. The county commission may employ the personnel it deems necessary to assist in the administration of the county personnel system.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 6, 1995

Time: 9:02 A.M.

Act No. 95-308 H. 592 – Rep. Hill

AN ACT

To amend Sections 34-27A-3, 34-27A-5, 34-27A-9, 34-27A-10, and 34-27A-11 of the Code of Alabama 1975, relating to the licensing and classes of real estate appraisers; to provide for the State Registered Real Property Appraiser Classification; and to exempt real estate appraisers previously licensed pursuant to Section 34-27A-7 of the Code of Alabama 1975, from taking a written examination for licensure reclassification to the "Registered Real Property Appraiser" classification.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 34-27A-3, 34-27A-5, 34-27A-9, 34-27A-10, and 34-27A-11 of the Code of Alabama 1975, are amended to read as follows:

"§34-27A-3.

"(a) It shall be unlawful for any person, partnership or corporation, for a fee or other valuable consideration, or with the intention or expectation of receiving or collecting a fee or valuable consideration from another, to do any of the following unless he or she is licensed under this chapter:

"(1) To be employed to perform or to perform an appraisal as defined in this chapter where the subject property of the assignment lies within the borders of the State of Alabama.

"(2) Present himself or herself, or allow himself or herself to be presented, as being able to perform an appraisal for which a license is required under this chapter.

"(b) It shall be unlawful for a person, other than a licensed real estate appraiser, to assume or use that title or any title, designation, or abbreviation likely to create the impression of licensure as a real estate appraiser by this state. It shall be unlawful for a person licensed as a real estate appraiser to assume or use a title, designation, or abbreviation likely to create the impression of licensure at a higher classification of real estate appraiser other than the classification at which the person is licensed. It shall be unlawful for a trainee real property appraiser or a registered real property appraiser pursuant to this chapter to describe or refer to any appraisal or other evaluation of real estate located in this state by the term "certified." Except where required by, or where necessary to fully comply with the provisions of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. No. 101-73, as amended, and regulations issued pursuant thereto, an employee of the State of Alabama or any county who has been commissioned by the Alabama Department of Revenue as an Alabama certified appraiser, for the purposes of classification only, who is engaged in the performance of official duties as an employee, shall not be subject to this chapter.

"(1) A trainee real property appraiser or a State Registered Real Property Appraiser under this chapter, shall include the following statement in the "certifications of the appraiser" section of each appraisal or specialized service report: "This assignment was made subject to regulations of the State of Alabama Real Estate Appraisers Board."

"(2) A licensed real estate appraiser licensed other than as a trainee real property appraiser or a registered real property appraiser shall include the following statement in the "certifications of the appraiser" section of each appraisal or specialized service report: "This assignment was made subject to regulations of the State of Alabama Real Estate Appraisers Board. The undersigned state licensed real estate appraiser has met the requirements of the board that allow this report to be regarded as a "certified appraisal."

"(c) Except where required by, or where necessary to fully comply with the provisions of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. No. 101-73, as amended, and regulations issued pursuant thereto, this chapter shall not apply to, or preclude, a person who is not a licensed real estate appraiser from performing real estate market analysis, in that person's capacity as a licensed real estate broker or salesperson under this title, and this chapter shall not apply to a licensed real estate broker or salesperson, who in the ordinary course of business, gives an opinion to a potential seller or third party as to

the recommended listing price of real estate, or an opinion to a potential purchaser or third party as to the recommended purchase price of real estate; and this chapter shall not apply to any employee, officers, director, partner, or similar person making a valuation, analysis, market study, or other appraisal for his or her employer or principal, including those related to any real estate related financial transactions for or on behalf of a financial institution. The words "employer or principal" as used in this subsection shall include any subsidiary, parent, affiliate, or partner of the direct employer or principal. This chapter shall not require now or in the future any person who lists or otherwise offers property for sale to have an appraisal of that property.

"(d) Any person violating any of the provisions of subsections (a) through (c) shall, upon conviction thereof, be guilty of a Class A misdemeanor and shall be punished as prescribed by law.

"(e) Notwithstanding anything to the contrary in this section, an individual who is not a licensed appraiser may assist in the preparation of an appraisal if the following conditions are met:

"(1) The assistant is under the direct supervision of a licensed individual.

"(2) The final appraisal document is approved and signed by an individual who is licensed to perform that type of appraisal."

"§34-27A-5.

"(a) The board shall act by a majority vote of its members to adopt administrative rules and regulations necessary, from time to time, to carry out this chapter. Rules and regulations of the board shall be adopted in compliance with the Alabama Administrative Procedure Act, Chapter 22 of Title 41.

"(b) The board shall have the following powers and duties:

"(1) To receive and process applications for licensure for all classifications of real estate appraisers, including, but not limited to, "Trainee Real Property Appraiser," "State Registered Real Property Appraiser," "Licensed Real Property Appraiser," "Certified Residential Real Property Appraiser," and "Certified General Real Property Appraiser" and any subsequent classifications necessary to conform with the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. 101-73, and any subsequent regulations issued pursuant thereto.

"(2) To establish the administrative procedures for processing applications for licensure for all classifications of real estate appraisers.

"(3) To maintain a registry of the names and addresses of people licensed under this chapter, and to furnish the list annually to the federal agency designated by congress to receive it.

"(4) To retain records and all application materials submitted to it.

"(5) To establish the examination specifications when an examination is required by administrative rule for each category of licensed real estate appraiser, to provide or procure appropriate examination questions and answers, and to establish procedures for grading examinations.

"(6) To approve or disapprove applications for licensure and issue licenses.

"(7) To further define by regulation and with respect to each category of licensed real estate appraiser the continuing education requirements for the renewal of a license that will meet the statutory requirements provided in this chapter. No examinations shall be required on the continuing education except to comply with subsection (c) of Section 34-27A-19.

"(8) To review and adopt the standards for the development and communication of real estate appraisals provided in this chapter, that are generally accepted within the appraisal profession, and to adopt regulations explaining and interpreting the standards.

"(9) To establish administrative procedures for disciplinary proceedings conducted pursuant to this chapter.

"(10) To censure, suspend, and revoke licenses pursuant to the disciplinary proceedings provided for in Section 34-27A-21.

"(11) To hire the executive director of the board who shall administer this chapter, and may employ, subject to the approval of the board, other staff members, consultants, or service contractors as are necessary to discharge the board's duties and administer this chapter.

"(12) To perform other functions and duties as may be necessary in carrying out this chapter, and to promulgate necessary and appropriate regulations which comply in all respects with requirements of Pub. L. No. 101-73 and any subsequent amendments thereto. Regulations shall be promulgated within 90 days following completion of the schedule for prescription and adoption of regulations by the federal financial institutions regulatory agencies and the resolution trust corporation. Regulations shall be promulgated and take effect by (i) July 1, 1991, unless an extension is granted by the appraisal subcommittee until December 31, 1991,

based on written findings as specified by Section 1119(a)(2) of Pub. L. No. 101-73; or (ii) any other date specified by subsequent act of Congress. All regulations issued by the board that govern real estate appraiser licensure and certification shall conform in all respects with the requirements of Pub. L. No. 101-73 and any subsequent amendments thereto and are subject to administrative review under the Administrative Procedure Act and to judicial review by application to the circuit court for Montgomery County.

"(13) To include in its regulations educational requirements for all classes of licensure of real estate appraisers that comply with this chapter and in all respects comply with the requirements of Pub. L. No. 101-73 and any subsequent amendments thereto or regulations issued thereunder.

"(c) The members of the board shall be immune from any civil action or criminal prosecution for initiating or assisting in any lawful investigation of the actions of, or any disciplinary proceeding concerning, a licensed real estate appraiser pursuant to this chapter, or alleged appraisals being made without a license, provided that the action is taken in good faith and in the reasonable belief that the action taken was pursuant to the powers and duties vested in the members of the board under this chapter.

"§34-27A-9.

"(a) There shall be five classes of real estate appraisers licensed by the board. The classes may be revised or other classes added if necessary to conform in all respects with the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. No. 101-73 (FIRREA), and any subsequent amendments and regulations issued pursuant thereto. The board shall make any revisions to the class titles or requirements for licensure by rules adopted in compliance with the Alabama Administrative Procedure Act, Chapter 22 of Title 41, and Section 34-27A-5. All persons in all classes licensed by the board are subject to the Competency Provision of the Uniform Standards of Professional Appraisal Practice.

"(1) The "Trainee Real Property Appraiser" classification applies to a person whose scope of practice is the appraisal of those properties which the supervising appraiser is permitted to appraise.

"(2) The "State Registered Real Property Appraisers" classification applies to those individuals licensed by the board as being qualified to perform real estate appraisals on nonfederally-related properties including any of the following:

a. Complex appraisals of 1 to 4 unit nonfederally-related residential properties having a transaction value of two hundred fifty thousand dollars ($250,000) or less and other nonresidential properties having a transaction value of two hundred fifty thousand dollars ($250,000) or less.

b. Noncomplex appraisals of 1 to 4 unit nonfederally-related residential properties having a transaction value of one million dollars ($1,000,000) or less.

c. This classification does not include the appraisal of subdivisions wherein a development analysis or appraisal is necessary and utilized.

d. All state registered real property appraisers shall comply with the Competency Provision of the Uniform Standards of Professional Appraisal Practice.

"(3) The "Licensed Real Property Appraiser" classification applies to the appraisal of non-complex, one to four residential units having a transaction value less than one million dollars ($1,000,000) and other types of real estate including complex, one to four residential units having a transaction value less than two hundred fifty thousand dollars ($250,000).

"(4) The "Certified Residential Real Property Appraiser" classification applies to the appraisal of one to four residential units without regard to transaction value or complexity and appraisals of other types of real estate having a transaction value of two hundred fifty thousand dollars ($250,000) or less.

"(5) The "Certified General Real Property Appraiser" classification applies to the appraisal of all types of real property regardless of complexity or transaction value.

"(b) The application for original licensure, renewal licensure, and examination shall specify the classification of licensure being applied for and the licensure previously granted.

"(c) A holder of a license issued prior to June 1, 1994, Section 34-27A-7 who does not submit proof of required appraisal education and experience upon renewal shall be issued a license for the appraiser classification for which he or she meets the requirements and shall not be required to take or pass a written examination for the issuance of a registered real property appraiser license pursuant to this section."

"§34-27A-11.

"(a) Certified general real property appraiser classification. — As a prerequisite to taking the examination for licensure as a

certified general real property appraiser, an applicant shall present evidence satisfactory to the board that he or she has successfully completed not less than 150 classroom hours of courses in subjects related to real estate appraisal from a nationally recognized appraisal organization or college or university approved by the board, plus 15 classroom hours related to the uniform standards of professional appraisal practice and this chapter and has two years experience out of the last five years as an appraiser with a minimum of 2000 hours of appraisal experience.

"(b) Certified residential real property appraiser classification. — As a prerequisite to taking the examination for licensure as a certified residential real property appraiser, an applicant shall present evidence satisfactory to the board that he or she has successfully completed not less than 120 classroom hours of courses in subjects related to real estate appraisal from a nationally recognized appraisal organization or a college or university approved by the board, plus 15 classroom hours related to uniform standards of professional appraisal practice and the provisions of this chapter and has two years experience during the last five years as an appraiser with a minimum of 2000 hours of appraisal experience.

"(c) Licensed real property appraiser classification. — As a prerequisite to taking the examination for licensure as a licensed real property appraiser, an applicant shall present evidence satisfactory to the board that he or she has successfully completed not less than 75 classroom hours of board approved courses in subjects related to real estate appraisal which shall include coverage of the uniform standards of professional appraisal practice. The individual shall have two years experience during the last five years with a minimum of two thousand hours of appraisal experience. If requested, experience documentation in the form of reports or file memoranda shall be available to support the experience claim.

"(d) State Registered Real Property Appraiser Classification. — As a prerequisite to being approved as a State Registered Real Property Appraiser, an applicant shall present evidence satisfactory to the board that he or she has successfully completed 75 classroom hours of courses in subjects related to real estate appraisal which shall include not less than 15 classroom hours of the Uniform Standards of Professional Appraisal Practice (USPAP). The individual shall furnish the board with a log sheet in support of the 1,000 hours appraisal experience. The board may select appraisal reports for review for compliance with the Uniform Standards of Professional Appraisal Practice (USPAP). Upon the approval of the board, the appraiser does not have to have a supervising appraiser on nonfederally-related transactions.

"(e) Trainee real property appraiser classification. — As a prerequisite to being approved as a trainee real property appraiser, an applicant shall present evidence satisfactory to the board that he or she has successfully completed 75 classroom hours of courses in subjects related to real estate appraisal which shall include not less than 15 classroom hours of the Uniform Standards of Professional Appraisal Practice. The trainee appraiser shall be subject to direct supervision by a supervising appraiser who shall be licensed or certified. The supervisor shall be responsible for the direct supervision of the trainee appraiser and both shall comply with the board's administrative rules regarding record keeping.

"(f) The board shall amend the education and experience requirements by administrative rule for all appraiser classifications as required by or where necessary to fully comply with the provisions of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. No. 101-73 (FIRREA), and any subsequent amendments and regulations issued pursuant thereto. Administrative rules shall be adopted in compliance with the Alabama Administrative Procedure Act, Chapter 22 of Title 41."

Section 2. Existing appraisers who are licensed as Licensed Real Estate Appraisers (ALs) may reclassify into the Registered Real Property Appraiser classification by submitting a log of 1,000 hours. The board may select three reports for review for compliance with the Uniform Standards of Professional Appraisal Practice (USPAP).

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 7, 1995

Time: 10:00 A.M.

Act No. 95-309 H. 373 – Rep. Rogers (J)

AN ACT

To amend Sections 27-40-1, 27-40-8, 27-40-9, 27-40-12, 27-40-15, and 27-40-17, Code of Alabama 1975, relating to insurance premium finance companies, to provide further for the regulation of such companies; to delete certain references to and authorizations for designated agents; to require premium finance agreements to contain certain information; and to substantially alter the procedure for return of gross unearned premium upon cancellation of the insurance contract; and to repeal Section 27-40-16, Code of Alabama 1975, which prohibits payments of rebates or inducements by premium finance companies for financing any insurance contract.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 27-40-1, 27-40-8, 27-40-9, 27-40-12, 27-40-15, and 27-40-17 of the Code of Alabama 1975, are amended to read as follows:

"§27-40-1.

"For the purposes of this chapter, the following words and phrases shall have the following meanings:

"(1) INSURANCE PREMIUM FINANCE COMPANY. A person engaged in the business of entering into premium finance agreements.

"(2) PREMIUM FINANCE AGREEMENT. An agreement by which an insured or prospective insured promises to pay to a premium finance company the amount advanced or to be advanced under the agreement to an insurer or to an insurance agent or broker in payment of premiums on an insurance contract together with a service charge, as authorized and limited by this chapter.

"(3) LICENSEE. A premium finance company holding a license issued under this chapter.

"(4) PERSON. An individual, partnership, association, business corporation, nonprofit corporation, common law trust, joint-stock company, or any other group of individuals however organized.

"(5) INSURANCE CONTRACT. The policy or contract of insurance which is the subject of premium financing under this chapter.

"§27-40-8.

"(a) The contents and style of the premium finance agreement shall be as follows:

"(1) It shall be dated, signed by the insured or an authorized representative and the printed portion thereof shall be in at least eight-point type.

"(2) It shall contain the name and place of business of the insurance agent negotiating the related insurance contract, the name and residence, or place of business, of the insured as specified by the insured, the name and place of business of the premium finance company to which payments are to be made, a description of the insurance contracts involved and the amount of the premium therefor.

"(3) It shall set forth the following items where applicable:

"a. The total amount of the premiums.

"b. The amount of the down payment.

"c. The principal balance, that being the difference between items a and b.

"d. The amount of the service charge.

"e. The balance payable by the insured, that being the sum of items c and d.

"f. The number of installments required, the amount of each installment expressed in dollars, and the due date or period thereof.

"g. The annual percentage rate (APR) charged.

"(b) The items set out need not be stated in the sequence or order in which they appear, and additional items may be included to explain the computations made in determining the amount to be paid by the insured."

"§27-40-12.

"(a) Whenever a financed insurance contract is cancelled, the insurer shall return whatever gross unearned premiums are due under the insurance contract to the premium finance company, either directly or via the agent or surplus lines broker placing the insurance, for the account of the insured or insureds as soon as reasonably possible, but in any event no later than 30 days after the effective date of cancellation.

"(b) In the event that the crediting of return premiums to the account of the insured results in a surplus over the amount due from the insured, the premium finance company shall refund the excess to the insured or the agent or surplus lines broker, within 30 days after receipt by the premium finance company with the check or draft made payable to the agent or surplus lines broker and to the insured, provided that no refund shall be required if it amounts to less than one dollar ($1).

"§27-40-9.

"(a) For the purpose of this section, "consumer insurance premium finance agreement" means an insurance premium finance agreement as defined in section 27-40-1 wherein the insurance contracts which are the subject of the premium finance agreement are for personal, family, or household purposes or where the premiums for those agreements are two thousand dollars ($2,000) or less. For the purpose of this section, "commercial premium finance agreement" means any insurance premium finance agreement other than a consumer premium finance agreement.

"(b) A premium finance company shall not charge, contract for, receive, or collect a service charge other than in accordance with the following provisions:

"(1) The service charge is to be computed on the balance of the premium due, after subtracting the down payment made by the insured in accordance with the premium finance agreement, from the effective date of the insurance for which the premiums are being advanced, to and including the date when the final installment of the premium finance agreement is payable.

"(2) The service charge per consumer insurance premium finance agreement shall be a maximum of nine dollars ($9) per one hundred dollars ($100) per annum plus an additional charge, which shall not exceed $15.00 per premium finance agreement, which additional charge need not be refunded.

"(3) The service charge for a commercial insurance premium finance agreement shall be as agreed to by the parties to the agreement.

"(c) Notwithstanding the provisions of any premium finance agreement, any insured may prepay the obligation in full at any time. In such event he shall receive a credit or refund under the rule of 78ths or the sum of the digits principle as follows: The amount of the refund or credit shall be as great a proportion of the finance charge originally contracted for as the sum of the periodic time balances of the debt scheduled to follow the date of prepayment bears to the sum of all the periodic time balances of the debt, both sums to be determined according to the scheduled payment originally contracted for. No refund of less than $1.00 need be made. If such prepayment is made by the debtor other than on a scheduled payment date, the nearest scheduled payment date shall be used in such computation. If, in addition to the service charge, an additional charge was imposed, such additional charge need not be refunded, nor taken into consideration in computing the credit refund."

"§27-40-15.

"(a) The amount of premium financed, more specifically referred to as 'the principal balance' in paragraph c. of subdivision (3) of Section 27-40-8, shall be sent to the insurance company or companies, or the agent or surplus lines broker.

"(b) All drafts, checks, or other orders of payment issued for premiums financed shall be issued by or on behalf of the premium finance company and shall be mailed, delivered, or otherwise transmitted directly to the insurance company or its agent, or surplus lines broker. Any check, draft, or other order or form of

payment to any insurance agent, insurance broker, managing general agent, or other person, when issued shall be presumed to have been issued by the duly authorized agent of the premium finance company which provided the checks or drafts to the person issuing the same for the purpose of issuance of such instrument.

"(c) Notwithstanding anything to the contrary in this section, the insurance company shall not be relieved of any of its duties or responsibilities with respect to the cancellation of any insurance contract which is subject to the premium finance agreement."

"§27-40-17.

"Any premium finance company which enters into a premium finance agreement under this chapter shall notify the insurer whose premiums are being financed of the existence of the agreement within a reasonable period of time, not to exceed 30 days after the date the agreement is accepted by the premium finance company."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 7, 1995

Time: 10:01 A.M.

Act No. 95-310 S. 260 – Senator Windom

AN ACT

Relating to trusts, providing further for the powers of trustees of express trusts created by trust instrument, without court authorization, in the absence of contrary provisions of the trust instrument; providing for the termination of certain small trusts by action of the trustee where the trustee determines that continued administration of the trust would be too costly; providing for certain discretionary actions that a trustee who is also a beneficiary of an express trust may not take in the absence of a specific authorization in the trust instrument; providing that if two or more persons are appointed co-trustees, acts in connection with the administration of the trust requires the concurrence of all co-trustees except in certain specified instances and except where the trust instrument otherwise provides; providing for the payment out of the trust estate of the expenses of the trustee in defending or prosecuting proceedings in good faith; providing that the provisions of the act shall apply to all trusts whether created before or after the effective date of the act but only as to decisions or actions occurring after the effective date of the act, and providing for the affirmative election by certain parties in interest to render certain provisions of the act inapplicable to trusts created before the effective date of the act; providing for the repeal of all laws or parts of laws in conflict with the act; providing that the provisions of the act are severable; and providing for an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. As used in this act, the following words and phrases have the following meanings:

(1) AFFILIATE. In the case of any trustee that is a corporation or other entity, any corporation or other entity controlling, controlled by or under common control with, such trustee.

(2) BENEFICIARY. A person who has any present or future interest, vested or contingent, in the trust; the owner of an interest by assignment or other transfer as it relates to a charitable trust; and any other person entitled to enforce the trust.

(3) CURRENT BENEFICIARY. A beneficiary who is currently receiving or is entitled to currently receive income or principal cash.

(4) INDIVIDUAL TRUSTEE. A trustee who is a natural person.

(5) PRUDENT PERSON. A trustee who (a) when investing, reinvesting, purchasing, acquiring, exchanging, selling and managing the trust estate acts with the care, skill, prudence and diligence required of such trustee under Section 19-3-120.2, Code of Alabama 1975, as amended, or if such statute is not applicable to the trust, under the provisions of such other applicable provision of law, and (b) in connection with other matters relating to the administration of the trust estate, observes the standards in dealing with the trust estate that would be observed by a prudent person dealing with the property of another in view of the purposes of the trust. If a trustee has special skills or is named as trustee on the basis of representations of special skills or expertise, the trustee is under a duty to use those skills.

(6) RELATED PARTY. (a) In the case of an individual trustee, any corporation, partnership (limited or general), trust company, association or other entity with respect to which the individual trustee holds any legal or beneficial ownership as shareholder, partner or otherwise, whether or not such interest is a controlling interest and whether such interest is direct or indirect, or holds any position as director, trustee, partner, officer or otherwise that allows such trustee to participate in the management of such corporation, partnership, association or other entity, whether or not such interest is a controlling interest and whether such interest is direct or indirect.

(b) In the case of any trustee which is a trustee entity (i) any other corporation, partnership (limited or general), association, trust company or other entity in which the trustee entity holds any legal or beneficial ownership as shareholder, partner or otherwise, whether or not such interest is a controlling interest, (ii) any corporation, partnership (limited or general), association, trust company or other entity which holds any legal or beneficial ownership interest in the trustee entity as shareholder, partner or otherwise,

whether or not such interest is a controlling interest and whether such interest is direct or indirect, (iii) any director, trustee, officer or employee, or person holding a similar position, of the trustee entity or any corporation, partnership (limited or general), trust company, association or oth entity constituting a related party of the trustee entity, and (iv) any other corporation, partnership (limited or general), trust company, association or other entity which has any directors, trustees, officers or employees in common with the trustee entity, whether or not the interests of such directors, trustees, officers or employees constitute a controlling interest in either entity.

(7) SETTLOR. The creator of a trust.

(8) TRUST. An express trust created by a trust instrument, including a will, whereby a trustee has the duty to administer a trust estate for the benefit of named or otherwise described beneficiaries. "Trust" does not include a resulting or constructive trust, a business trust which provides for certificates to be issued to the beneficiary, a voting trust, security instrument, a trust created by the judgment or decree of a court (unless this act is specifically incorporated by reference), a liquidation trust, a trust for the primary purpose of paying salaries, wages, pensions, or employee benefits of any kind, a trust under an indenture of trust or similar document created by a public or private entity in connection with the issuance and/or sale of any obligations of such entity or to secure any such obligations, an instrument wherein a person is a nominee or an escrowee for another, or a trust created in deposits in any financial institution.

(9) TRUSTEE. An original, added or successor trustee and co-trustees where applicable; in the case of a trustee which is a trustee entity, includes its successor by merger, consolidation, or other reorganization.

(10) TRUSTEE ENTITY. Any trustee which is a corporation (including without limitation any banking corporation), partnership (limited or general), association, trust company, national banking association, savings bank or other entity and which is authorized to engage in trust business in this state.

Section 2. From the creation of the trust until final distribution of the assets from the trust, a trustee may, without prior court authorization, perform every act that a prudent person would perform for the purpose of the trust, including but not limited to, the powers specified in this act.

Section 3. Unless otherwise expressly limited in the trust instrument, or by an order of court, a trustee may, acting as a

prudent person would in light of the purpose of the trust, perform any or all of the following acts:

(1) Receive (subject to the trustee's approval), collect, hold and retain for such time as the trustee shall deem advisable, property, real or personal, including property in which the trustee or any related party is personally interested. The trustee is specifically authorized to receive, collect, hold, and retain common or preferred stock or other interest in the trustee or any related party. In the absence of an express provision to the contrary in a trust instrument, a trustee may without liability continue to hold property received into an account at its inception or subsequently added to it or acquired pursuant to proper authority if and as long as the trustee, in the exercise of good faith and of reasonable prudence, may consider that retention to be in the best interest of the account or in furtherance of the purposes of the trust. Such property may include, among other things, stock in the trustee if a trustee entity, and stock in any related party;

(2) Sell, purchase, exchange, execute options for, partition, or otherwise dispose of or acquire, any property or interest therein which the trustee may hold from time to time, at public or private sale or otherwise, including such transactions with or involving any related party as principal or agent, upon such terms and conditions, including credit, and for such consideration as the trustee shall deem advisable, including reasonable compensation for any such related party, and to transfer and convey the property or interest therein which is at the disposal of the trustee, in fee simple absolute or otherwise free of all trust; provided that the trustee or the related party discloses to the current beneficiary in any reasonable manner (including by confirmation, account statement, prospectus, or otherwise) the terms of the transaction, including any fee paid to the related party. For purposes of the immediately preceding sentence, compensation charged by or paid to a related party shall be conclusively presumed to be reasonable if such compensation is consistent with any standard fee table maintained by the related party in the ordinary course of business;

(3) Invest and reinvest the trust assets in securities, investments and other property which are authorized as investments for trust assets under Section 19-3-120, Code of Alabama 1975, as amended, or under any other applicable statute or law, and, in addition to such securities, investments and other property, to invest and reinvest the trust assets in any and all other kinds of securities, investments and other property, without regard to type or classification, subject only to compliance in connection with the selection of such securities, investments and other investments with the standards of prudence applicable under Section

19-3-120.2, Code of Alabama 1975, as amended, or if such statute is not applicable to the trust, under the provisions of such other applicable provision of law. Nothing contained in this act shall, insofar as such authorization may be prohibited by the Constitution of this state, authorize the investment of trust assets in the stock of any private corporation;

(4) Continue or participate in the operation of any business or other enterprise in which the trust owns an interest and to effect incorporation, dissolution, or other change in the form of the organization of the business or enterprise;

(5) Acquire or dispose of an asset for cash or on credit at a public or private sale; manage, develop, improve, exchange, partition, change the character of, or abandon a trust asset or any interest in it; encumber, mortgage, or pledge a trust asset for a term within or extending beyond the term of the trust in connection with the exercise of any power vested in the trustee;

(6) Make ordinary or extraordinary repairs or alterations in buildings or other structures; demolish any improvements; or raze existing or erect new party walls or buildings;

(7) Subdivide, develop, or dedicate land to public use; make or obtain the vacation of plats and adjust boundaries; adjust differences in valuation on exchange or partition by giving or receiving consideration; or dedicate easements to public use without consideration;

(8) Enter for any purpose into a lease as lessor or lessee with or without option to purchase or renew for a term within or extending beyond the term of the trust;

(9) Enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;

(10) Grant an option involving disposition of a trust asset or take an option for the acquisition of any asset;

(11) Pay from income or principal, as determined in accordance with the provisions of Article 12 of Chapter 3 of Title 19 of the Code of Alabama 1975, as amended, or other applicable provisions of law, any and all expenses reasonably necessary for the administration of the trust including interest, taxes, insurance premiums, assessments, agents' fees or compensation, trustees' fees or compensation, including additional fees for extraordinary services and, fees to related parties, and other expenses incurred in the collection, care, administration, and protection of the trust estate;

(12) Receive additional property from any source and to administer the additional property as a portion of the appropriate trust

estate under the management of the trustee, provided that the trustee shall not be required to receive additional property without the trustee's consent;

(13) Deposit funds in a bank or other financial institution, including in a separate department of the trustee or in any related party;

(14) Borrow money for such periods of time and upon such terms and conditions as to rates, maturities, renewals, and security as the trustee shall deem advisable, including the power to borrow from any related party, for the purpose of paying debts, taxes, or other charges against the trust or any part thereof, for the purchase of any authorized asset, for the operation of any business enterprise, or for any other need to achieve the purpose of the trust, in any form; and to mortgage, pledge, or otherwise encumber such portion of the trust estate as may be required to secure the loan or loans; and to renew existing loans;

(15) Make advances for the benefit or protection of the trust and for any or all expenses, losses and liabilities sustained in the administration of the trust or as a result of the holding or ownership of any asset by the trust, for which advances the trustee shall be entitled to receive interest at any commercially reasonable rate of interest set by the trustee and which advances, together with interest, shall constitute a lien on the trust assets as against the beneficiaries;

(16) Vote shares of stock or other securities, in person or by special, limited, or general proxy, with or without power of substitution, or to determine to not vote such shares of stock or other securities;

(17) Hold any security at a qualified depository in the name of a nominee or in other form without disclosure of the fiduciary relationship, so that title to the security may pass by delivery; but the trustee shall be liable for any act of the nominee in connection with the security so held;

(18) Exercise all options, rights, and privileges to convert stocks, bonds, debentures, notes, mortgages, or other property into other stocks, bonds, debentures, notes, mortgages, or other property, and to subscribe for other or additional stocks, bonds, debentures, notes, mortgages, or other property so acquired as investments of the trust so long as the trustee shall deem advisable;

(19) Unite with other owners of property in carrying out any plans for the consolidation or merger, dissolution or liquidation, foreclosure, lease, or sale of the property or the incorporation or reincorporation, reorganization or readjustment of the capital or

financial structure of any corporation, partnership, company, or association, the securities of which may form any portion of the trust estate; to become and serve as a member of a stockholders' or bondholders' protective committee; to deposit securities in accordance with any plan agreed upon; to pay any assessments, expenses, or sums of money that may be required for the protection or furtherance of the interest of the beneficiaries of any trust with reference to any such plan; and to receive as investments of a trust any securities issued as a result of the execution of such plan;

(20) Modify the interest rate from time to time on any obligation, whether secured or unsecured, constituting a part of any trust;

(21) Continue any obligation, whether secured or unsecured, upon and after maturity, with or without renewal or extension, upon such terms as the trustee shall deem advisable, without regard to the value of the security, if any, at the time of the continuance;

(22) Effect a fair and reasonable compromise with any debtor or obligor, or extend, renew, or in any manner modify the terms of any obligation owing to the estate. If the trustee holds a mortgage, pledge, or other lien upon property of another person, the trustee may, in lieu of foreclosure, accept a conveyance or transfer of encumbered assets from the owner thereof in satisfaction of the indebtedness secured by the lien;

(23) Carry such insurance coverage, including public liability, for such hazards and in such amounts, either in stock companies or in mutual companies, as the trustee shall deem advisable in connection with holding and administering the trust estate, including to insure the trust assets and to insure the trustee against liability, and to pay the premiums for such insurance;

(24) In the discretion of the trustee, resign as trustee by giving not less than thirty days' written notice to the adult current beneficiaries, or if none then a court of competent jurisdiction, who shall appoint the successor trustee. If no successor is appointed by the adult current beneficiaries within the thirty-day notice period, the trustee may petition a court of competent jurisdiction to appoint a successor trustee. The successor trustee shall not be liable for the actions or inactions of any prior trustee;

(25) Institute and defend any and all suits or legal proceedings related to said trust estate, in any jurisdiction; and to employ counsel, expert witnesses or other agents; and to compromise, adjust, submit to arbitration, bring or defend actions on, abandon,

or otherwise deal with and settle any dispute or claim in favor of or against the trust estate as the trustee shall deem advisable (the trustee's decision shall be conclusive between the trustee and the beneficiaries of the trust and the person against or for whom the dispute or claim is asserted, in the absence of fraud by such persons, and, in the absence of fraud, bad faith, or gross negligence of the trustee, shall be conclusive between the trustee and the beneficiaries of the trust);

(26) Employ and compensate, out of income or principal, or both, and in such proportion as the trustee shall deem advisable (subject to any applicable requirements of Article 12 of Chapter 3 of Title 19 of the Code of Alabama, 1975, as amended), persons deemed by the trustee needful to advise or assist in the proper management and administration of the trust, including, but not limited to, agents, auditors (including public accountants, certified public accountants or internal auditors), brokers, attorneys-at-law, attorneys-in-fact, investment bankers, investment advisors, rental agents, realtors, appraisers, and tax specialists (including any related party, so long as the relationship and the fees charged are reasonable and disclosed in any reasonable manner to the current beneficiaries); and to do so without liability for any neglect, omission, misconduct, or default of the agent or representative, provided the trustee acted as a prudent person in selecting and monitoring the agent or representative. For purposes of the immediately preceding sentence, compensation charged by or paid to a related party shall be conclusively presumed to be reasonable if such compensation is consistent with any standard fee table maintained by the related party in the ordinary course of business;

(27) Acquire, receive, hold, and retain undivided the principal of several trusts created by a single instrument until division shall become necessary in order to make distributions; to hold, manage, invest, reinvest, and account for the several shares or parts of shares by appropriate entries in the trustee's books of account and to allocate to each share or part of share its proportionate part of all receipts and expenses; provided, however, that this paragraph shall not defer the vesting in possession of any share or part of share of the trust estate;

(28) Make distribution of principal assets of the trust in kind or in cash, or partially in kind and partially in cash, in divided or undivided interests, as the trustee finds to be most practicable and for the best interests of the distributees, and the trustee may distribute types of assets differently among the distributees; and to determine the value of principal assets for the purpose of making distribution thereof if and when there is more than one distributee

thereof, which determination shall be binding upon the distributees unless clearly capricious, erroneous, and inequitable;

(29) Make payments in money, or in property in lieu of money, to or for the benefit of a minor or incompetent in any one or more of the following ways:

(a) Directly to the minor or incompetent;

(b) Directly in payment for the support, care, maintenance, education, and medical, surgical, hospital, or other institutional care of the minor or incompetent;

(c) To the legal or natural guardian of the minor or incompetent; or

(d) To any other person, whether or not appointed guardian of the person by any court, who shall, in fact, have the care and custody of the person of the minor or incompetent. The trustee shall not be under any duty to see to the application of the payments so made if the trustee acted as a prudent person in the selection of the person, including the minor or incompetent, to whom the payments were made; and the receipt of the person shall be full acquittance to the trustee;

(30) Allocate items of income or expense to either trust income or principal, as determined in accordance with the provisions of Article 12 of Chapter 3 of Title 19 of the Code of Alabama 1975, as amended, or other applicable provisions of law, including creation of proper and reasonable reserves for taxes, assessments, insurance premiums, depreciation, obsolescence or amortization, depletion in minerals or timber properties, repairs, improvements, and general maintenance of buildings or other property; and

(31) Make contracts and to execute deeds and instruments, under seal or otherwise, as may be necessary in the exercise of the powers granted in this act.

Section 4. If a trustee has determined that the market value of a trust is less than twenty five thousand dollars ($25,000.00) and that, relative to the cost of administrating the trust, continuance pursuant to its existing terms will defeat or substantially impair the accomplishment of its purposes, the trustee may terminate the trust and distribute the trust property, including principal and undistributed income to the beneficiaries in a manner which conforms as nearly as possible with the intent of the settlor. The trustee may enter into agreements or make other provisions necessary or appropriate to protect the interest of the beneficiaries and the trustee to carry out the intent and purpose of the trust. This section shall apply to all trusts, without

regard to the dispositive provisions of the trust instrument, unless the trust instrument expressly provides that the trustee may not terminate the trust pursuant to this section.

Section 5. (1) Due to the inherent conflict of interest that exists when a trustee is also a beneficiary, unless the terms of a trust refer specifically to this section and provide to the contrary, a trustee shall not perform any of the following on behalf of or for the benefit of a beneficiary who is also a trustee:

(a) Make discretionary distributions of either principal or income for the benefit of the trustee, except to provide for the health, education, maintenance, or support of the trustee as described under Internal Revenue Code Sections 2041 and 2514, as amended.

(b) Make discretionary allocations of receipts or expenses as between principal and income, unless the trustee has no power to enlarge or shift any beneficial interest except as an incidental consequence of the discharge of the fiduciary duties of the trustee.

(c) Make discretionary distributions of either principal or income to satisfy any legal or support obligations of the trustee. Nothing in this section shall be construed as a general power of appointment for any trustee.

(2) Any of the proscribed powers enumerated in this section that are conferred upon two or more trustees may be exercised by the trustees who are not beneficiaries of the trust. If there is no trustee who is not a beneficiary, any party in interest, as defined in subsection (4) below, may apply to a court of competent jurisdiction to appoint an independent trustee and the power may be exercised by the independent trustee appointed by the court.

(3) A person who has the right to remove or to replace a trustee does not possess nor may that person be deemed to possess, by virtue of having that right, the powers of the trustee that is subject to removal or to replacement.

(4) For purposes of this act, the parties in interest of a trust shall include any of the following:

(a) If the trust is revocable or amendable and the settlor is not incapacitated, the party in interest is the settlor.

(b) If the trust is revocable or amendable and the settlor is incapacitated, the party in interest is the legal representative of the settlor under applicable law or the donee of the settlor under a durable power of attorney that is sufficient to grant the authority.

(c) If the trust is not revocable or amendable, the parties in interest are any of the following:

i. Each trustee then serving;

ii. Each current beneficiary then in existence or, if any current beneficiary has not attained majority or is otherwise incapacitated, the legal representative of the current beneficiary under applicable law or the donee of the current beneficiary under a durable power of attorney that is sufficient to grant the authority; and

iii. Each remainder beneficiary then in existence or, if any remainder beneficiary has not attained majority or is otherwise incapacitated, the legal representative of the beneficiary under applicable law or the donee of the beneficiary under a durable power of attorney that is sufficient to grant the authority.

Section 6. If two or more persons are appointed co-trustees and unless the trust instrument provides otherwise, the concurrence of all is required on all acts connected with the administration of the trust. This restriction does not apply:

(1) When any co-trustee receives and receipts for property due the trust,

(2) When the concurrence of all cannot readily be obtained in time reasonably available for emergency action necessary to preserve the trust estate, or

(3) When a co-trustee has been delegated to act for the others.

Section 7. If any trustee defends or prosecutes any proceeding in good faith, whether successful or not, the trustee is entitled to receive from the trust estate reasonable expenses and disbursements, including, but not limited to, attorneys' fees incurred.

Section 8. The provisions of this act shall apply to all trusts existing on the effective date of this act and all trusts created after the effective date of this act. As applied to trusts existing on the effective date of this act, this act governs only decisions or actions occurring after the effective date of this act. Notwithstanding the provisions of this section, the provisions of Section 5 of this act shall not apply to trusts created under a document executed before the effective date of this act in either of the following circumstances:

a. If the trust is revocable or amendable, the settlor revokes or amends the trust at any time to provide that the trust shall not be subject to this section.

b. If the trust is irrevocable, all parties in interest, as defined in subsection (4)(c) of Section 5 of this act, elect affirmatively not to be subject to the application of this section, through a written declaration executed in the manner prescribed for the recordation of deeds in this state and delivered to the trustee. The election shall be made on or before the later of three years after the effective date of this act, or three years after the date on which the trust becomes irrevocable. Prior to the effectiveness of any timely election by the parties in interest of a trust not to be subject to the provisions of Section 5 of this act, the provisions of said Section 5, to the extent otherwise applicable, shall continue to apply to the trust.

Section 9. Nothing contained in this act shall be construed to abrogate any right, authority, or discretion which a trustee would have under the terms of the trust instrument, by law or otherwise in the absence of this act, including without limitation, the following provisions of the Code of Alabama 1975, as amended, Section 5-11A-12, Article 2 of Chapter 11A of Title 5, Sections 19-3-11, 19-3-120.1, 19-3-120.2, Article 12 of Chapter 3 of Title 19, and Chapter 4A of Title 19.

Section 10. All laws or parts of laws which conflict with this act are repealed.

Section 11. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 12. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 7, 1995

Time: 10:05 A.M.

Act No. 95-311 S. 275 – Senator Clay

AN ACT

To amend Sections 25-4-4, 25-4-16, 25-4-54, 25-4-78, 25-4-95, 25-4-120, 25-4-133, and 25-4-134, Code of Alabama 1975, to provide further for the fiscal year, the definition of wages, penalties on certain delinquent employers, disqualifications for unemployment compensation benefits, filing for judicial review of decisions by boards of appeal, offsets to recover overpayment, penalties on employers delinquent in filing certain reports, and limitations on certain actions and to provide for certain retroactive effect.

Be It Enacted by the Legislature of Alabama:

Section 1. For purposes of amending certain existing provisions in the unemployment compensation laws, it is the intent of this act to change the fiscal year for contributory employers, to exclude self-employment and other noninsured employment from consideration when determining the "most recent bona fide work," to include loss of insurability as a basis for disqualification and provide that a person may not be disqualified for benefits when the person is without fault and has made a reasonable effort to obtain an initial license, to provide that after October 7, 1995 social security payments shall no longer be used as disqualification for benefits, to exclude self-employment from consideration when determining the "most recent bona fide work" for purposes of benefits and to bring the Unemployment Compensation Code into conformity with the AAPA with regard to the appellate process on appeals of assessments on delinquent unemployment contributions.

Section 2. Sections 25-4-4, 25-4-16, 25-4-54, 25-4-78, 25-4-95, 25-4-120, 25-4-133, and 25-4-134, Code of Alabama 1975, are amended to read as follows:

"§25-4-4.

"(a) 'Calendar quarter,' as used in this chapter, means the period of three consecutive calendar months ending on March 31, June 30, September 30 or December 31, except as the director shall by regulation otherwise prescribe.

"(b) 'Fiscal year,' as used in this chapter, shall mean the 12 consecutive month period beginning October 1 of each calendar year for employers who make payments in lieu of contributions to the fund. For contributory employers, 'fiscal year,' as used in this chapter, shall mean the 12 consecutive month period beginning July 1 of each calendar year beginning January 1, 1996 and thereafter."

"§25-4-16.

"(a) Prior to January 1, 1983, 'wages,' as used in this chapter, shall mean such remuneration as was defined in this section prior to such date.

"(b) On and after January 1, 1983, 'wages,' as used in this chapter, shall mean every form of remuneration paid or received for personal services, including the cash value of any remuneration paid in any medium other than cash. The reasonable cash value of remuneration paid in any medium other than cash shall be determined in accordance with rules prescribed by the director;

except that effective on May 28, 1980, and for the purposes of reporting and computing the amount of contributions due, back pay awarded as the result of an agreement, arbitration or order of a court of competent jurisdiction on a retroactive basis shall be considered 'wages' during the calendar quarter in which such retroactive payments are made. The term 'wages,' however, shall not include:

"(1) That part of remuneration, which after remuneration equal to $8,000.00 (or such greater amount as may be or become subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund) has been paid in a calendar year to an individual by an employer or his predecessor employer or by a combination of both the employer and his predecessor employer with respect to employment during any calendar year, is paid to such individual by such employer during such calendar year except with respect to subdivisions (1) and (2) of subsection (a), subdivision (4) of subsection (b) and subsection (c) of section 25-4-54 and sections 25-4-71 through 25-4-75. For the purpose of this subdivision (1), the term 'employment' shall include service constituting employment under any unemployment compensation law of another state or of this state.

"(2) The amount of any payments (including any amount paid by an employer for insurance or annuities, or into a fund to provide for any such payment) made to, or on behalf of an employee or any of his dependents under a plan or system established by an employer which makes provisions for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of:

"a. Retirement; or

"b. Sickness or accident disability, or, effective January 1, 1996, medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of six calendar months following the last calendar month in which the employee worked for such employer; or

" c. Death.

"(3) Any payment made to an employee (including any amount paid by an employer for insurance or annuities, or into a fund to provide for any such payment) on account of retirement.

"(4) Any payment made by an employer to, or on behalf of, any employee or his beneficiary:

"a. From or to a trust which meets the requirements of Section 401(k) of the federal Internal Revenue Code and which is exempt from tax under Section 501(a) of the federal Internal Revenue Code at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust; or

"b. Under or to an annuity plan which, at the time of such payment, meets the requirements of Section 401(a) (3), (4), (5) and (6) of the federal Internal Revenue Code.

"(5) The payment by an employer (without deduction from the remuneration of the employee) of the tax imposed upon an employee under Article 3 of this chapter, or of the tax imposed upon an employee by Section 3101 of the federal Internal Revenue Code, as amended, with respect only to remuneration paid to an employee for domestic service in a private home or for agricultural labor.

"(6) Remuneration paid in any medium other than cash to an employee for agricultural or domestic services or for services not in the course of the employer's trade or business.

"(7) Any payment (other than vacation or sick pay) made to an employee after the month in which he attains the age of 65, if he did not work for the employer in the period for which such payment is made.

"(8) Dismissal payments which the employer is not legally required to make.

"(9) Payments made into a fund by an employer to provide for supplemental unemployment benefits under a plan established to provide such benefits to employees in general, or a group or class of employees, of such employer."

"§25-4-54.

"(a) Determination of contribution rates.

"(1) For the 12-month period beginning on January 1 of each year which begins after December 31, 1996, any employer whose experience rating account has been subject to benefit charges throughout at least the fiscal year, as defined in Section 25-4-4, immediately preceding such January 1, shall have his rate determined by the unemployment compensation fund's liability for benefits paid to his employees, modified by the fund's balance as of the

most recent June 30. The employment record of an organization which has been making payments in lieu of contributions but which elects to change to payment of contributions shall be deemed to have been chargeable with benefits throughout the period (not to exceed three fiscal years) with respect to which it was making payments in lieu of contributions and its benefit charges and payrolls for such period shall be used in computing its benefit ratio pursuant to subsection (d) of this section.

"(2) For the 12-month period beginning on January 1 of each calendar year which begins before January 1, 1997, the rates of contribution shall be determined as was prescribed by this section prior to said January 1, 1997.

"(b) Determination of individual benefit charges.

"(1) An individual's 'benefit charges' shall be as follows:

"a. For each week benefits are paid, an individual's 'benefit charges' shall be equal to the amount of benefits he was paid for such week.

"b. For each week extended benefits pursuant to Section 25-4-75 are paid to an individual, the 'benefit charges' shall be equal to the state's share of such benefits paid to him for such weeks; provided, however, where an individual's 'benefit charges' for extended benefits are attributable to service in the employ of any governmental entity, as defined in paragraph (a)(2)b of Section 25-4-10, the individual's 'benefit charges' shall be an amount equal to the benefits he was paid for such week.

"(2) Any benefits paid to an individual based on wages paid to an employee during his base period for part-time employment by an employer who continues to give the employee employment to the same extent while he is receiving benefits as he did during his base period shall not be determined to be the individual's benefit charges. The employer shall establish the continuation of work to the satisfaction of the director by submitting such information as the director may require within the time required by other provisions of this chapter after the date of notification or mailing of notice by the director that the employee has first filed a claim for benefits.

"(3) If benefits paid to an individual are based on wages paid by two or more employers, the amount of the individual's benefit charges applicable to any one employer shall be an amount which bears the same ratio to the total benefit charges as the total base period wages paid by such employer to the individual and used for the payment of benefits bears to the total base period wages paid

to the individual by all his base period employers and used for the payment of benefits.

"(4) When, in the determination of any individual's benefits, wages have been properly included once for one benefit year or for one base period, such wages shall not thereafter be included again in the computation of his benefits for any other benefit year or in his wages for any other base period respectively.

"(c) Determination of employer benefit charges.

"(1) An employer's benefit charges for each and every fiscal year shall be the total of the regular benefits and the state's share of the extended benefits paid during such fiscal year to all of his employees or former employees which are attributable to wages paid by such employer to his employees or former employees; except as is provided by paragraph a of subdivision (a)(5) of Section 25-4-51 for governmental entities.

"(2) The director shall analyze the benefit payments in each fiscal year and determine each employer's benefit charges for each fiscal year.

"(3) The director shall, after the close of each calendar quarter, furnish each employer with a statement of the benefits paid to his workers, or former workers, which became his benefit charges in that calendar quarter, together with the names of such workers, or former workers, and such statement, in the absence of an application for a revision thereof within 30 days of the mailing of such statement to the employer's last known address, shall be conclusive and final upon the employer for all purposes and in all proceedings whatsoever. Such application for revision shall be in the form and manner prescribed by regulation of the director. Upon receipt of, within the time allowed, an application for revision of such statement, the director shall allow such application in whole or in part, or shall deny such application and shall serve notice upon the employer of such decision. Such decision of the director shall be final and conclusive on the employer at the expiration of 30 days from the date of service of such notice, unless the employer shall within the said 30-day period file with the director a written protest and a petition for hearing, specifying his objections thereto. Upon receipt of such petition the director shall fix a time and place for a hearing and shall notify the employer thereof. At any hearing held as herein provided, the decision of the director shall be prima facie correct, and the burden shall be upon the protesting employer to prove it is incorrect. No employer shall have the right to object to the benefit charges with respect to any worker as shown on such statement, unless he shall first show that such charges arose as a result of benefits paid to such worker

in accordance with a determination, or a redetermination, to which such employer was a party entitled to notice thereof, as provided by Article 5 of this chapter, and shall further show that he was not notified of such determination or redetermination in accordance with the requirements of said Article 5 of this chapter. Nothing herein contained shall affect the right of any employer at such hearing to object to such statement of benefit charges on the ground that it is incorrect by reason of a clerical error made by the director or any of his employees. The employer shall be promptly notified by mail of the director's decision. Such decision shall be final and conclusive unless an appeal is taken therefrom in the manner and within the time prescribed in subsection (h) of this section.

"(4) Nothing contained in subdivision (3) of this subsection (c) shall be construed as limiting or affecting in any manner the right and authority of the director to remove benefit charges from any employer's account upon discovering or being aware of any such employer's workers or former workers having drawn benefits by reason of false representation of their earnings while filing claims for benefits nor to make any corrections resulting from any adjustment to benefits paid to the individual.

"(5) Any Alabama unemployment compensation benefits paid to any claimant under the following conditions shall not be charged to the account of a contributory base period employer(s) for the state fiscal year ending June 30, 1996, and each fiscal year thereafter, if:

"a. The benefits are paid for unemployment due directly to a major natural disaster, and

"b. The President has declared the event a disaster pursuant to the Disaster Relief Act of 1970, 42 USC 4401, et seq., as amended, and

"c. The benefits are paid from the Alabama U.I. Trust Fund to claimants who would have been eligible for disaster unemployment assistance under this act, if they have not first received Alabama unemployment insurance benefits with respect to their unemployment.

"(d) Determination of employer benefit ratio. — Effective January 1, 1997, and each year thereafter, the benefit ratio of each employer who qualifies for a rate determination under subdivision (a)(1) of this section and has been chargeable with benefits throughout the three most recent preceding fiscal years shall be a

percentage obtained by dividing the total of his benefit charges for such three-year period by that part of his total taxable payroll for the same three-year period with respect to which contributions have been paid on or before July 31, next following such period, and the benefit ratio of each employer who qualifies for a rate determination under subdivision (a)(1) of this section, but who has not been subject to this chapter for a period of time sufficient to have been chargeable with benefits throughout the three most recent preceding fiscal years, shall be a percentage obtained by dividing the total of his benefit charges for the period throughout which he has been chargeable, such period to be not less than the most recent preceding fiscal year by that part of his total taxable payroll for the same period with respect to which contributions have been paid on or before July 31 next following such period. The employers benefit ratio shall be computed to the fourth decimal and be used in determining each employer's contribution rate as prescribed in subsection (a) of this section for the next calendar year; except that:

"For tax rate year beginning January 1, 1991, the employer's benefit ratio shall be determined by the employer's actual benefit charges to his account for the fiscal year ending September 30, 1990, and for fiscal years ending September 30, 1988, and September 30, 1989, the employer's benefit charges shall be determined from data accumulated by the director during such years relative to benefit wage charges and converted to benefit charges, in such manner as the director shall prescribe.

"Penalty Rate—Effective January 1, 1996, and each calendar year thereafter, employers shall be assigned a penalty rate equal to the maximum rate of the prevailing tax rate schedule for that year and the shared cost assessment for that year if both of the following occur:

"(a) The employer is eligible for an experience rate under Section 25-4-54.

"(b) On October 1, subsequent to each fiscal year, the employer is delinquent in the payment of monies or filing of quarterly contribution reports and wage reports, or both, for any calendar quarters ending on or prior to June 30, 1996, and each fiscal year thereafter.

"(e) Shared costs.

"(1) For the purposes of this subsection (e) and for the determination of an employer's rate of contribution pursuant to subsection (f), 'shared' or 'socialized' cost for each fiscal year is defined to be:

"a. Benefit charges which cannot be effectively assigned to an individual employer's experience rating account during such fiscal year because of the employer becoming inactive (in accordance with Section 25-4-130); and

"b. The total amount of the difference between the benefit charges to all employers during the fiscal year who are assigned the maximum rate of contribution under any one of the rate schedules for the calendar year next following such fiscal year and the total amount of contributions received from all such maximum rated employers during the same fiscal year; and

"c. Credits granted employers during such fiscal year because of the reason for separation (as provided in Section 25-4-78), continued part-time work [as provided by subdivision (b)(2) of this section] and relief from charges granted an employer under the provisions of subdivision (c)(4) of this section; and

"d. Benefit overpayments which have been declared uncollectible or have been waived by the director during the fiscal year pursuant to the applicable provisions of this chapter; and

"e. Contributions due from employers but not paid and which have been, during such fiscal year, declared uncollectible by the bankruptcy courts or official action by the director; and

"f. Cost resulting from the relief of charges for contributory employers under Section 25-4-54(c)(5) will be included in shared cost as defined in this section.

"(2) The total of the amounts determined under the provisions of subdivision (1) above shall be the statewide total shared cost for any fiscal year.

"(3) Net shared costs for any fiscal year shall be the statewide total of shared costs for that fiscal year reduced (but not below zero) by the amount of:

"a. Interest received by the fund from the U. S. Treasury during such fiscal year; and

"b. The total amount of the difference between the contributions received from all employers during such fiscal year who are assigned the minimum rate of contributions under any one of the rate schedules for the calendar year next following such fiscal year and the total of all benefit charges made to all such minimum rated employers during the same fiscal year.

"(4) To determine the 'shared cost ratio' for any fiscal year, the net shared cost for such fiscal year shall be divided by the statewide total of taxable wages for the same fiscal year which have been reported by all contributory employers and upon which contributions have been timely paid (reduced by the total of the taxable wages reported and timely paid on by any employer or employers for the same fiscal year, who by the provisions of subdivision (5) of this subsection (e) are relieved of the shared cost assessment). The resulting quotient adjusted to the nearest multiple of one-thousandth shall be the 'shared cost ratio' applicable for assessment to all contributory employers for the next following calendar year.

"(5) a. Except as is hereinafter provided, the shared cost ratio as computed under the above provision for each fiscal year shall, for the next calendar year, be assessed each employer eligible for a rate determination under the provision of subdivision (a)(1) of this section, in addition to the rate of contributions determined by the tables contained in subsection (f) of this section.

"1. Any employer whose rate of contribution has been determined to be the minimum rate allowed under Schedule A for a calendar year, shall be relieved of any shared cost assessment during that calendar year;

"2. Any employer whose rate of contribution has been determined to be the minimum rate allowed under Schedule B for a calendar year and whose experience rating account has not been charged with any benefits during the three immediately preceding fiscal years, shall be relieved of any shared cost assessment for that calendar year;

"3. No relief shall be granted to any employer for any portion of the shared cost assessment for a calendar year when either Schedule C or D is in effect.

"b. The assessment for shared costs shall become due and payable at the same time and in the same manner as contributions.

"c. The authority of the director to enforce collection of any shared cost assessment shall be the same as is provided in this chapter for the enforcement of the collections of contributions.

"(f) Notice of contribution rate, etc.; maximum rate. The contribution rates (expressed as a percentage of taxable wages) for each employer, as provided in subsection (a) of this section, shall be determined by the director and the director shall notify each employer of his benefit ratio and his contribution rate within 30

days after the effective date of such rate. Such employer contribution rate for the tax rate years beginning January 1, 1991, shall be determined from the appropriate rate schedule prescribed for that tax rate year by the provisions of subsection (g) of this section and shall be the rate which appears on the same horizontal line on which is found the employer's benefit ratio.

"TAX RATE TABLE

		EMPLOYER TAX RATE SCHEDULE:			
LINE NO.	IF THE EMPLOYER'S BENEFIT RATIO IS:	A	B	C	D
1	0.00 - 0.39	0.20	0.35	0.50	0.65
2	0.40 - 0.59	0.35	0.50	0.65	0.80
3	0.60 - 0.79	0.50	0.70	0.90	1.00
4	0.80 - 0.99	0.70	0.90	1.10	1.20
5	1.00 - 1.19	0.85	1.10	1.30	1.40
6	1.20 - 1.39	1.00	1.30	1.55	1.65
7	1.40 - 1.59	1.15	1.50	1.75	1.90
8	1.60 - 1.79	1.30	1.70	1.95	2.15
9	1.80 - 1.99	1.45	1.90	2.15	2.40
10	2.00 - 2.19	1.60	2.10	2.40	2.65
11	2.20 - 2.39	1.75	2.30	2.60	2.85
12	2.40 - 2.59	1.90	2.50	2.80	3.10
13	2.60 - 2.79	2.05	2.70	3.05	3.35
14	2.80 - 2.99	2.20	2.90	3.25	3.60
15	3.00 - 3.19	2.35	3.10	3.50	3.85
16	3.20 - 3.59	2.50	3.40	3.80	4.20
17	3.60 - 3.99	2.80	3.80	4.25	4.70
18	4.00 - 4.39	3.10	4.20	4.70	5.20
19	4.40 - 4.79	3.40	4.60	5.10	5.70
20	4.80 - 5.19	3.70	5.00	5.50	6.20
21	5.20 - 5.59	4.00	5.40	6.00	6.70

22	5.60 - 5.99	4.30	5.40	6.00	6.70
23	6.00 - 6.39	4.60	5.40	6.10	6.80
24	6.40 - 6.79	4.90	5.40	6.10	6.80
25	6.80 - 7.19	5.20	5.40	6.10	6.80
26	7.20 or over	5.40	5.40	6.10	6.80

"The provisions of this subsection (f) to the contrary notwithstanding, the rates of contribution shall, after having been determined as herein prescribed, be adjusted as follows for calendar quarters beginning after March 31, 1992 and ending March 31, 1997:

"If the rate of contribution specified by the Tax Rate Table contained in this section is:	The employer's contribution rate shall be:
"0.20	0.14
0.35	0.29
0.50	0.44
0.65	0.59
0.70	0.64
0.80	0.74
0.85	0.79
0.90	0.84
1.00	0.94
1.10	1.04
1.15	1.09
1.20	1.14
1.30	1.24
1.40	1.34
1.45	1.39
1.50	1.44
1.55	1.49
1.60	1.54
1.65	1.59
1.70	1.64

1.75	1.69
1.90	1.84
1.95	1.89
2.05	1.99
2.10	2.04
2.15	2.09
2.20	2.14
2.30	2.24
2.35	2.29
2.40	2.34
2.50	2.44
2.60	2.54
2.65	2.59
2.70	2.64
2.80	2.74
2.85	2.79
2.90	2.84
3.05	2.99
3.10	3.04
3.25	3.19
3.35	3.29
3.40	3.34
3.50	3.44
3.60	3.54
3.70	3.64
3.80	3.74
3.85	3.79
4.00	3.94
4.20	4.14
4.25	4.19

4.30	4.24
4.60	4.54
4.70	4.64
4.90	4.84
5.00	4.94
5.10	5.04
5.20	5.14
5.40	5.40
5.50	5.44
5.70	5.64
6.00	5.94
6.10	6.04
6.20	6.14
6.70	6.64
6.80	6.74

"The adjustment in rates of contributions as are herein provided shall apply only to those employers who are required to pay contributions by the provisions of Section 25-4-51 and those nonprofit organizations, hospitals, educational institutions, agencies of the State of Alabama and political subdivisions of the state who have, under the option permitted by Section 25-4-51, for that calendar year elected to pay contributions. The adjustment shall not apply to any employer who, because of insufficient unemployment experience, has not become eligible to have his rate of contribution determined by the method prescribed under this subsection (f); whose rate of contribution is determined to be 5.4%, or is above 5.4% and by the application of the adjustment would become a rate less than 5.4%; and all employers who being eligible for such option have elected the option to make payments in lieu of contributions.

"(g) Determination of contribution rate schedule. — Contribution rates for each employer, determined pursuant to subsection (f) of this section, shall nevertheless be subject to the contribution rate schedule as is hereinafter provided.

"(1) The 'benefits payroll ratio' of the state for each fiscal year shall be determined by dividing the total of benefits paid, including the state's portion of benefits paid under any extended benefit

program, from the unemployment compensation fund within the preceding fiscal year, less any benefits paid for which payments in lieu of contributions have been paid or are currently due to be paid, by the statewide total payrolls of all employers upon which contributions on the taxable portion thereof have been paid during the same fiscal year, and by adjusting the quotient to the nearest multiple of one-thousandth.

"(2) The desired level of unemployment compensation fund for each fiscal year shall be one and four-tenths times the amount determined by multiplying the highest statewide total of payrolls of all employers upon which contributions on the taxable portion thereof have been paid during any one of the three most recent preceding fiscal years by the highest benefits payroll ratio for any one of the 10 most recent preceding fiscal years.

"(3) The director shall, on or before the December 1 next following the end of each fiscal year, declare effective for the 12-month period beginning with January 1 of the immediately succeeding calendar year, the desired level of the fund and the schedule to be in effect for that 12-month period. The contribution rate for each employer for the next calendar year shall be determined by the director as provided in subsection (f) of this section on the basis of each employer's benefit ratio as determined under the provisions of subsection (d) of this section; and whenever at the end of any fiscal year, the fund balance is:

"a. One hundred twenty-five percent or more of the desired level computed for the fiscal year, contribution rates shall be determined under Schedule A;

"b. Equal to the desired level but is less than 125% thereof, contribution rates shall be determined under Schedule B.

"c. Less than the desired level but is at least 70% thereof, contribution rates shall be determined under Schedule C.

"d. Less than 70 percent of the desired level, contribution rates shall be determined under Schedule D.

"(4) Any amount credited to this state's account under Section 903 of the Social Security Act, as amended, which has been appropriated for expenses of administration, whether or not withdrawn from the trust fund, shall be included in the trust fund balance in determining whether or not such fund is greater or less than the desired level of the fund for a fiscal year; except, that any amount appropriated and withdrawn which will not be repaid to the fund shall not be included in such balances.

"(5) The director shall notify each employer of such declaration and of his benefit ratio and his contribution rate within 30 days after each such January 1. This subdivision (5) shall not apply to

employers who, in lieu of contributions, reimburse the fund for benefits paid.

"(h) Review of contribution rate, etc. Any employer may apply to the director for and shall be entitled to a review as to the determination of his benefit ratio and his contribution rate as fixed by his benefit ratio, provided such application is filed within 30 days of the date of the mailing by the director to the employer of the notice of such determination. Pending such review, such employer shall make all contribution payments otherwise required by this chapter at contribution rates fixed by the determination sought to be reviewed and resulting overpayments or underpayments of contributions by the employer shall, upon any redetermination, be adjusted or refunded pursuant to Section 25-4-137. Any employer may within 30 days after the date of mailing by the director to such employer of notice of the ruling of the director upon such application for review appeal such ruling to the circuit court of any county wherein the employer is engaged in doing business, upon such terms and upon giving such security for costs as the court may upon application prescribe. Trial in that court shall be de novo with respect to his benefit ratio.

"(i) Contribution rate, etc., of successor employer. — For the purpose of this section, an employer's benefit charges and that part of his taxable payroll with respect to which contributions have been paid, shall be deemed benefit charges and taxable payrolls of a successor employer and shall be taken into account in determining the contribution rate of such successor employer as provided in subsection (f) of this section, if such successor succeeds the employer in any of the manners set out in paragraph (a) (4)a of Section 25-4-8; provided, that an employer subject to this chapter who becomes such in any of the manners set out in paragraph (a) (4)b of Section 25-4-8 may have that portion of his predecessor's benefit charges and that part of his predecessor's total taxable payroll, with respect to which contributions have been paid which correspond to the segregable portion of the business assets and payroll thereof, acquired from his predecessor, deemed to be his benefit charges and his payroll and such shall be taken into account in determining his rates, as provided in subsection (f) of this section; provided, that he:

"(1) Makes written application within 90 calendar days from the date of such acquisition; and

"(2) Furnishes to the director within 120 calendar days from the date of such acquisition a transcript of such total and taxable payrolls which correspond to the segregable portion acquired from his predecessor; provided further that in the event that within the intervening 120 days a notice of his rate of contribution has been

mailed to the partial successor, the 30-day finality provision set forth in subsection (h) of this section shall not prevail but, instead, be effective with respect to the subsequent notice computed on the basis of the benefit ratio and taxable payrolls of the acquired segregable portion."

"§25-4-78.

"An individual shall be disqualified for total or partial unemployment:

"(1) LABOR DISPUTE IN PLACE OF EMPLOYMENT. — For any week in which his total or partial unemployment is directly due to a labor dispute still in active progress in the establishment in which he is or was last employed. For the purposes of this section only, the term "labor dispute" includes any controversy concerning terms, tenure or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee. This definition shall not relate to a dispute between an individual worker and his employer.

"(2) VOLUNTARILY QUITTING WORK. — If he has left his most recent bona fide work voluntarily without good cause connected with such work.

"a. 1. However, he shall not be disqualified if he was forced to leave work because he was sick or disabled, notified his employer of the fact as soon as it was reasonably practicable so to do, and returned to that employer and offered himself for work as soon as he was again able to work; provided, however, this exception shall not apply if the employer had an established leave-of-absence policy covering sickness or disability and:

"(i) The individual fails to comply with same as soon as it is reasonably practicable so to do; or

"(ii) Upon the expiration of a leave of absence shall fail to return to said employer and offer himself for work, if he shall then be able to work, or if he is not then able to work, he fails to so notify his employer of that fact and request an extension of his said leave of absence as soon as it is reasonably practicable so to do.

"2. In case of doubt that an individual was sick or disabled, or as to the duration of any such sickness or disability, the director may, or if the employer requests it, the director shall require a doctor's certificate to establish the fact or facts in doubt.

"3. An established leave-of-absence policy shall be any leave-of-absence policy covering sickness and disability communicated to the employee by the customary means used by the employer for communicating with his employees.

"4. Nothing herein shall be construed or interpreted as authorizing the payment of benefits to any person during, or for, unemployment due to sickness or disability or during any period in which he is on a leave of absence granted in accordance with an established leave-of-absence policy, the duration of which leave was set in accordance with his request or in accordance with a collective bargaining agreement; except, that if such leave of absence is on account of pregnancy and extends beyond the tenth week following termination of such pregnancy, the individual shall not be denied benefits under the provisions of this subdivision (2) beyond such tenth week if she has given the employer three weeks notice of her desire to return to work, is then able to work and has not refused reinstatement to a job which under the provisions of subdivision (5) of this section would be deemed suitable for her.

"b. When an individual is disqualified under this subdivision (2):

"1. He shall not be entitled to benefits for the week in which the disqualifying event occurs or for any week thereafter until:

"(i) He has reentered insured employment or employment of the nature described in subdivisions (5), (6), (7), (8), (9), (10) or (18) of subsection (b) of Section 25-4-10; and

"(ii) For which employment he has earned wages equal to at least 10 times his weekly benefit amount for the benefit year in which such disqualification is assessed; and

"(iii) He has been separated from such employment under nondisqualifying conditions.

"2. The total amount of benefits to which he may otherwise be entitled as determined in accordance with Sections 25-4-74 and 25-4-75 shall be reduced by an amount equal to not less than six nor more than 12 times his weekly benefit amount.

"3. For the purpose of the experience rating provisions of Section 25-4-54, no portion of the benefits payable to him, based upon wages paid to him for the period of employment ending with the separation to which the disqualification applies, shall be charged to the employer's experience rating account. If the individual has been separated from employment other than his most recent bona fide work under conditions which would have been disqualifying under this subdivision (2) had the separation been from

his most recent bona fide work and the employer answers a notice of payment within 15 days after it is mailed to him detailing the facts in connection with the separation, then no portion of any benefits paid to him based upon wages for the period of employment ending in such separation shall be charged to the employer's experience rating account.

"c. An individual shall not be disqualified if he left his employment and immediately returned to work with his regular employer or to employment in which he had prior existing statutory or contractual seniority or recall rights. When this exception is applied, any benefits paid to such individual based upon wages paid for that period of employment immediately preceding the separation to which the exception is applied, which have not been heretofore charged to the employer's experience rating account, shall not be charged to the account of such employer.

"d. For the purposes of this subdivision (2) and subdivision (3) of this section, the director in determining the "most recent bona fide work" shall only consider employment of the nature described in subsection 10 (a) of this chapter. The director shall also consider the duration of the most recent job or jobs, the intent of the individual and his employer as to the permanence of such work and whether separation from the immediately preceding employment was under conditions which would be disqualifying in the event such immediately preceding employment should be determined to be the most recent bona fide work.

"(3) DISCHARGE FOR MISCONDUCT. —

"a. If he was discharged or removed from his work for a dishonest or criminal act committed in connection with his work or for sabotage or an act endangering the safety of others or for the use of illegal drugs after previous warning or for the refusal to submit to or cooperate with a blood or urine test after previous warning. Disqualification under this paragraph may be applied to separations prior to separation from the most recent bona fide work only if the employer has filed a notice with the director alleging that the separation was under conditions described in this paragraph in such manner and within such time as the director may prescribe.

"(i) A confirmed positive drug test that is conducted and evaluated according to standards set forth for the conduct and evaluation of such tests by the U.S. Department of Transportation in 49 C.F.R. Part 40 or standards shown by the employer to be otherwise reliable shall be a conclusive presumption of impairment by illegal drugs. No unemployment compensation benefits shall be allowed to an employee having a confirmed positive drug test if the

employee had been warned that such a positive test could result in dismissal pursuant to a reasonable drug policy. A drug policy shall be deemed reasonable if the employer shows that all employees of the employer regardless of position or classification, are subject to testing under the policy, and in those instances in which the employer offers as the basis for disqualification from unemployment compensation benefits the results obtained pursuant to additional testing imposed on some but not all classifications, if the employer can also offer some rational basis for conducting such additional testing. Further, no unemployment compensation benefits shall be allowed if the employee refuses to submit to or cooperate with a blood or urine test as set forth above, or if the employee knowingly alters or adulterates the blood or urine specimen.

"(ii) For purposes of paragraph a. and item (i) of paragraph a. of this subsection, "warning" shall mean that the employee has been advised in writing of the provisions of the employer's drug policy and that either testing positive pursuant to the standards referenced above or the refusal to submit to or cooperate with a blood or urine test as set out in the above referenced standards could result in termination of employment. This written notification as herein described shall constitute a "warning" as used in paragraph a. and item (i) of paragraph a. of this subsection.

"(iii) To the extent that the issue is a positive drug test or the refusal to submit to or cooperate with a blood or urine test, or if the employee knowingly alters or adulterates the blood or urine sample, as distinguished from some other aspect of the employer's drug policy, this disqualification under paragraph a. and item (i) of paragraph a. shall be the only disqualification to apply, in connection with an individual's separation from employment. Other nonseparation disqualifications may apply.

"When an individual is disqualified under this paragraph:

"1. He shall not be entitled to benefits for the week in which the disqualifying event occurs or for any week thereafter until he has reentered insured employment or employment of the nature described in subdivisions (5), (6), (7), (8), (9), (10) or (18) of subsection (b) of Section 25-4-10, has earned wages equal at least to 10 times his weekly benefit amount and has been separated from such employment for a nondisqualifying reason.

"2. He shall not thereafter be entitled to any benefits under this chapter on account of wages paid to him for the period of employment by the employer by whom he was employed when the disqualifying event occurred.

"3. For the purposes of the experience rating provisions of Section 25-4-54:

"(i) No portion of any benefits based upon wages paid to the individual for the period of employment by the employer by whom he was employed when the disqualifying event occurred shall be charged to the employer's experience rating account.

"(ii) In the case of a separation prior to the separation from the most recent bona fide work, if the only reason disqualification under this paragraph a was not assessed was the failure of the employer to properly file a timely separation report with the director and the employer files such a report within 15 days after the mailing of a notice of payment, then no portion of any benefits paid based upon the wages paid for the period of employment ending in such prior separation shall be charged to the employer's experience rating account.

"b. If he was discharged from his most recent bona fide work for actual or threatened misconduct committed in connection with his work (other than acts mentioned in paragraph a. of this subdivision (3)) repeated after previous warning to the individual. When an individual is disqualified under this paragraph, or exempt from disqualification for a separation under such conditions prior to his most recent bona fide work, the effect shall be the same as provided in paragraph b. of subdivision (2) of this section for disqualification or exemption from disqualification respectively.

"c. If he was discharged from his most recent bona fide work for misconduct connected with his work [other than acts mentioned in paragraphs a and b of this subdivision (3)]:

"1. He shall be disqualified from receipt of benefits for the week in which he was discharged and for not less than the three nor more than the seven next following weeks, as determined by the director in each case according to the seriousness of the conduct.

"2. The total amount of benefits to which he may otherwise be entitled as determined in accordance with Sections 25-4-74 and 25-4-75 shall be reduced by an amount equal to the product of the number of weeks for which he shall be disqualified multiplied by his weekly benefit amount.

"3. Only one-half of the benefits paid to him based upon wages for that period of employment immediately preceding the separation to which the disqualification applies shall be charged to the employer for the purposes of the experience rating provisions of Section 25-4-54. If the individual has been separated from employment, other than his most recent bona fide work, under conditions which would have been disqualifying under paragraph c of this subdivision (3), had the separation been from his most recent bona

fide work and the employer answers a notice of payment within 15 days after it is mailed to him detailing the facts in connection with the separation, then only one-half of the benefits paid to him for that period of employment immediately preceding the separation shall be charged to the employer for the purposes of the experience rating provisions of Section 25-4-54.

"d. If he has been suspended as a disciplinary measure connected with his work, or for misconduct connected with his work, he shall be disqualified from benefits for the week or weeks (not to exceed four weeks) in which, or for which, he is so suspended and the total amount of benefits to which he may otherwise be entitled shall be reduced in the same manner and to the same extent as provided in subparagraph 2 of paragraph c of this subdivision (3).

"(4) REVOCATION OR SUSPENSION OF REQUIRED LICENSE, ETC. — For the week in which he has become unemployed because a license, certificate, permit, bond, surety, or insurability which is necessary for the performance of such employment and which he is responsible to maintain or supply has been revoked, suspended or otherwise become lost to him for a cause other than one which would fall within the meaning of subdivision (3) of this section, but one which was within his power to control, guard against or prevent, and for each week thereafter until:

"a. Said license, certificate, permit, bond or surety, or insurability, has been restored to him and he has reapplied to his employer for employment; or

"b. He has reentered insured employment or employment of the nature described in subdivisions (5), (6), (7), (8), (9), (10) or (18) of subsection (b) of Section 25-4-10, whichever is the earlier.

"(c) Nothing in this subsection shall be construed as basis for disqualification of an individual who is without fault and who has made a reasonable effort to obtain his or her initial license, certificate, permit, bond, surety, or insurability required for the performance of assigned duties.

"(5) FAILURE TO ACCEPT AVAILABLE SUITABLE WORK, ETC. — If he fails, without good cause, either to apply for or to accept available suitable work or to return to his customary self-employment when so directed by the director or when he is notified of suitable work or it is offered him through a state employment office or the United States employment service, or directly or by written notice or offer to any such employment office or employment service by an employer by whom the individual was formerly employed. Such disqualification shall be for a period of not less than one nor more than 10 weeks from the date of said failure.

This disqualification shall not apply unless the individual has an established benefit year, or is seeking to establish one or is seeking extended benefits at the time he fails without good cause, to do any of the acts set out in this subdivision (5).

"a. In determining whether or not any work is suitable for an individual, the director shall consider:

"1. The degree of risk involved to his health, safety and morals, his physical fitness and prior training,

"2. His experience and prior earnings,

"3. His length of unemployment,

"4. His prospects for securing local work in his customary occupation,

"5. The distance of the available work from his residence; provided, that no work or employment shall be deemed unsuitable because of its distance from the individual's residence, if such work or employment is in the same or substantially the same locality as was his last previous regular place of employment and if the employee left such voluntarily without good cause connected with such employment.

"b. Notwithstanding any other provisions of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

"1. If the position offered is vacant due directly to a strike, lockout or other labor dispute;

"2. If the wages, hours or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; or

"3. If as a condition of being employed the individual would be required to join a company union, or to resign from or refrain from joining any bona fide labor organization.

"c. Notwithstanding any other provisions of this section, benefits shall not be denied an individual, by reason of the application of the provisions of this subdivision (5), with respect to any week in which he is in training with the approval of the director as described in subdivision (a)(3) of Section 25-4-77.

"(6) RECEIPT OF DISMISSAL OR SEPARATION ALLOWANCE, BACK PAY AWARD, ETC. — For any week with respect to which he is receiving or has received remuneration in the form of wages in lieu of notice, a dismissal or separation

allowance or back pay award. Notwithstanding the provisions of Section 25-4-91 any benefits previously paid for weeks of unemployment with respect to which back pay awards are made shall constitute an overpayment and such amounts shall be deducted from the award by the employer prior to payment to the employee and shall be transmitted promptly to the director by the employer for application against the overpayment and credit to the claimant's maximum benefit amount and prompt deposit into the fund; provided, however, the removal of any charges made against the employer as a result of such previously paid benefits shall be applied to the calendar year and the calendar quarter in which the overpayment is received by the director and no attempt shall be made to relate such a credit to the period to which the award applies. Any amount of overpayment deducted by the employer shall be subject to the same procedures for collection as is provided for contributions by Section 25-4-134 of this chapter.

"(7) RECEIPT OF OR APPLICATION FOR UNEMPLOYMENT COMPENSATION FROM ANOTHER STATE, ETC. — For any week with respect to which, or a part of which, he has received or is seeking unemployment benefits under an unemployment compensation law of any other state or of the United States; provided, that if the appropriate agency of such other state or of the United States finally determines that he is not entitled to such unemployment benefits this disqualification shall not apply.

"(8) RECEIPT OF PENSION PAYMENT. — For any week with respect to which, or a part of which, an individual has received or has, except for the determination of an exact or specific amount, been determined eligible to receive (during a period for which benefits are being claimed) governmental or other pension, retirement or retired pay, annuity, or similar periodic payment which is based on the previous work of the individual; except, that

"a. For weeks of unemployment which begin prior to April 26, 1982, as was prescribed by this subsection prior to such date, and

"b. For weeks of unemployment which begin on or after April 26, 1982, the amount of any benefits payable to an individual for any such week which begins in a period with respect to which the disqualifying provisions of this subdivision apply, shall be reduced (but not below zero) by an amount equal to the amount of such pension, retirement or retired pay, annuity or other payment, which is reasonably attributable to such week, provided, however, such reduction required hereby shall apply to any pension, retirement or retired pay, annuity, or other similar payment only if:

"1. Such payment is made under a plan maintained (or contributed to) by a base period employer, and

"2. In the case of such a payment not made under the Social Security Act or the Railroad Retirement Act of 1974 (or the corresponding provisions of prior law), services performed for such employer by the individual after the beginning of his base period (or remuneration for such services) affect eligibility for or increase the amount of, such payment.

"c. The other provisions of this subdivision to the contrary notwithstanding, beginning with the weeks ending October 7, 1995, the amount of any pension, retirement or retired pay, annuity, or other similar periodic payment under the Social Security Act or the Railroad Retirement Act shall not result in a reduction of benefits under this subdivision.

"d. If in accordance with this subdivision (8) any individual is awarded pension payments retroactively covering the same period for which the individual received benefits, the retroactive payments shall constitute cause for disqualification and any benefits paid during such period shall be recovered.

"(9) RECEIPT OF OR APPLICATION FOR WORKMEN'S COMPENSATION. — For any week with respect to which, or a part of which, he has received or is seeking compensation for temporary disability under any workmen's compensation law; provided, that if it is finally determined he is not entitled to such compensation, this disqualification shall not apply; and provided further, that if such compensation is less than the benefits which would otherwise be due under this chapter, he shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such payment.

"(10) EMPLOYMENT BY PUBLIC WORKS AGENCY, ETC. — For any week that such individual is engaged or employed by the works progress administration, **the national youth administration** or any federal or state unit, agency or instrumentality in charge of public works, assistance through public employment or work relief.

"(11) SELF-EMPLOYMENT. — For any week in which he is self-employed and each week thereafter until he shall establish that he is no longer self-employed.

"(12) RECEIPT OF, OR APPLICATION FOR, TRAINING ALLOWANCE, ETC. — For any week with respect to which, or a part of which, an individual who is enrolled in a course of training with the approval of the director, within the meaning of subdivision (a)(3) of Section 25-4-77, has applied for, or is entitled to receive, any wage or subsistence or training allowance or other form of remuneration, other than reimbursement for travel

expenses, for a course of training under any public or private training program; provided, that if it is finally determined that he is not entitled to such remuneration, this disqualification shall not apply. If the remuneration, the receipt of which is disqualifying under this subdivision (12), is less than the weekly benefits which he would otherwise be due under this chapter he shall be entitled to receive, if otherwise eligible, weekly benefits reduced by the amount of such remuneration. It is further provided that receipt of training allowances under the Trade Readjustment Act shall not be cause for disqualification under this subdivision.

"(13) PARTICIPATION IN PROFESSIONAL SPORTS. — For any week which commences during the period between two successive sport seasons (or similar periods) to any individual for which benefits claimed are on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

"(14) ALIENS. —

"a. For any week for which benefits claimed are on the basis of services performed by an alien unless:

"1. Such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, and was lawfully present for purposes of performing such services; or,

"2. Such alien was permanently residing in the United States under color of law at the time such services were performed (including an alien who is lawfully present in the United States as a result of the application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and Nationality Act); or,

"3. Such alien was lawfully admitted for temporary residence as provided for under the provisions of Section 245A(a) of the Immigration Reform and Control Act of 1986 (PL 99-603).

"b. Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

"c. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status shall be made except upon a preponderance of the evidence.

"§25-4-95.

"Within 30 days after the decision of the board of appeals has become final, any party to the proceeding including the director who claims to be aggrieved by the decision may secure a judicial review thereof by filing a notice of appeal in the circuit court of the county of the residence of the claimant; except, that if the claimant does not reside in this state at the time the appeal is taken, the notice of appeal shall be filed in the circuit court of the county in this state in which the claimant last resided, or in the circuit court of the county in this state wherein the claimant last worked. In such action, the notice of appeal need not be verified, but shall state the grounds upon which a review is sought. A copy shall be served upon the director or upon such person as the director may designate (and for the purpose hereof, mailing a copy addressed to the director at Montgomery by registered or certified mail shall be deemed service on the director), and such service shall be deemed completed service on all parties, but there shall be left with the parties so served as many copies of the notice of appeal as there are defendants, and the director shall forthwith mail one copy to each defendant. The director shall cause to be certified and filed in the said court all documents and papers introduced in evidence before the board of appeals or appeals tribunal, together with the findings of fact and the decision of the board of appeals or the appeals tribunal, as the case may be. No circuit court shall permit an appeal from a decision allowing or disallowing a claim for benefits unless the decision sought to be reviewed is that of an appeals tribunal or of the board of appeals and unless the person filing such appeal has exhausted his administrative remedies as provided by this chapter. Trial in the circuit court shall be de novo. Actions under this chapter shall be tried by any judge of the circuit court to whom application is made at any location in said circuit, and shall be given precedence over all other civil cases except cases arising under chapter 5 of this title. An appeal may be taken from the decision of the circuit court in the same manner as is provided in civil cases. It shall not be necessary in any judicial proceeding, under this section, to enter exceptions to the rulings of the board of appeals or the appeals tribunals, as the case may be, and no bond shall be required before entering such appeal. Upon the final determination of such judicial proceeding, the board of appeals shall enter an order in accordance with such determination."

"§25-4-120.

"(a) Interstate benefit payments. — The director is hereby authorized to enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the federal government, or both, whereby potential rights to benefits under

this chapter may constitute the basis for payment of benefits by another state or the federal government, and potential rights to benefits accumulated under the law of another state or the federal government may constitute the basis for the payment of benefits by this state. Such benefits shall be paid under such provisions of the law of the state wherein the wages, upon the basis of which such benefits are determined, were issued. No such arrangement shall be entered into unless it contains provision for reimbursement to the fund for such benefits as are paid on the basis of wages and service subject to the law of another state or the federal government, and provision for reimbursement from the fund for such benefits as are paid by another state or the federal government on the basis of wages and service subject to this chapter. Reimbursements paid from the fund pursuant to this subsection shall be deemed to be benefits for the purposes of this chapter.

"(b) Combination of wage credits. — The director shall participate in any arrangements for the payment of compensation on the basis of combining an individual's wages and employment covered under this chapter with his wages and employment covered under the unemployment compensation laws of other states, which are approved by the United States secretary of labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of compensation in such situations, and which include provisions for

"(1) Applying the base period of a single state law to a claim involving the combining of an individual's wage and employment covered under two or more state unemployment compensation laws, and

"(2) Avoiding the duplicate use of wages and employment by reason of such combining.

"(c) Reciprocal coverage. — The director is hereby authorized to enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the federal government or both, whereby, notwithstanding any other provisions of this chapter:

"(1) Service performed by an individual for a single employing unit for which service is customarily performed by such individual in more than one state shall be deemed to be service performed entirely within any one of the states in which

"a. Any part of such individual's service is performed, or

"b. Such individual has his residence, or

"c. The employing unit maintains a place of business; provided, that there is in effect, as to such service an approved election by an employing unit with the consent of such individual, pursuant to

which service performed by such individual for such employing unit is deemed to be performed entirely within such state; and

"(2) Service performed by not more than three individuals, on any portion of a day but not necessarily simultaneously, for a single employing unit which customarily operates in more than one state shall be deemed to be service performed entirely within the state in which such employing unit maintains the headquarters of its business; provided, that there is in effect, as to such service, an approved election by an employing unit with the consent of each such individual, pursuant to which service performed by such individual for such employing unit is deemed to be performed entirely within such state.

"(d) Reexamination of reciprocal arrangements. — If, after entering into an arrangement provided for by this section, the director finds that the employment security law of any state or of the federal government participating in such arrangement has been changed in a material respect, the director shall make a new finding as to whether such arrangement shall be continued with such state or with the federal government.

"(e) Overpayments of unemployment benefits which have become final under this chapter shall be recovered by offset from unemployment benefits otherwise payable under the unemployment compensation law of another state, and overpayments of unemployment benefits as determined under the unemployment compensation law of the other state shall be recovered by offset from unemployment benefits otherwise payable under this chapter.

"(f) Overpayments of unemployment benefits as determined under applicable federal law, with respect to benefits or allowances for unemployment provided under a federal program administered by this state under an agreement with the United States Secretary of Labor, shall be recovered by offset from unemployment benefits otherwise payable under this chapter or any federal program, or under the unemployment compensation law of another state or any federal unemployment benefit or allowance program administered by the other state under an agreement with the United States Secretary of Labor if the state has in effect a reciprocal agreement with the United States Secretary of Labor as authorized by Section 303(g)(2) of the Federal Social Security Act, and if the United States agrees, as provided in the reciprocal agreement with this state entered into under Section 303(g)(2) of the Social Security Act, that overpayments as determined under this chapter and overpayments as determined under the unemployment compensation law of another state which has in effect a reciprocal agreement with the United States Secretary of Labor as authorized by Section 303(g)(2) of the Social Security Act, shall be

recovered by offset from benefits or allowances of unemployment otherwise payable under a federal program administered by this state or the other state under an agreement with the United States Secretary of Labor."

"§25-4-133.

"(a) Any employer without good cause failing to pay any contribution within the time required by this chapter or the rules and regulations of the director shall be required by the director to pay, in addition thereto, a penalty of 10 percent of the amount thereof, together with interest on said contributions at the rate prescribed in section 25-4-132. If the failure to pay on the part of the employer is due to fraud, an additional penalty of 15 percent shall be assessed against, and collected from, such defaulting employer.

"(b) Any employer without good cause failing to file any quarterly wage and contribution report within the time required by this chapter or the rules and regulations of the director shall be required by the director to pay a penalty of twenty-five dollars ($25) or 10 percent of the net contributions due, whichever is greater, for his or its failure to file such report when due. Such penalty shall be in addition to any penalty assessed under the provisions of subsection (a) of this section and shall apply to each delinquent report separately. The penalty shall become effective for delinquent reports for calendar quarters which begin on or after January 1, 1996. For years prior to January 1, 1996, the penalty shall be as was provided in this section prior to January 1, 1996."

"§25-4-134.

"(a) Generally. — The contributions, interest and penalties required to be paid under this chapter shall be a first and prior lien upon all property and rights to property, real or personal, of any employer subject to this chapter. The lien shall arise at the time the contribution report, or the payment of the contributions, as the case may be, was due to have been filed with or made to the department of industrial relations. The director may file in the office of the judge of probate of any county in this state a certificate which shall show the name of the department for which it is filed, the amount and nature of the contributions, interest and penalties for which a lien is claimed together with any costs that may have accrued, the name of the employer against whose property a lien for such contributions, interest and penalties is claimed and the date thereof. An error in the certificate of the amount shall not invalidate the lien for the amount actually due. Such certificates shall be indexed and recorded under the same provision of law of this state relating to the filing and recording of certificates of judgment and without costs; provided, however, that such lien shall be effective as to purchasers, mortgagees and judgment

creditors only from the time a certificate shall have been duly filed for record in the office of the judge of probate in the county wherein is located the property to be subjected to such lien.

"Limitation on collections.

"No civil action by the director, described in subsections (a), (b) or (c) of this section, to collect employer contributions, interest, and penalties due under this chapter shall commence after the expiration of 10 years from the date that the contributions, interest, and penalties were due to be paid under the provisions of this chapter or the date of final determination, whichever is later.

"(b) Civil actions.

"(1) LIEN. — The director shall insure the payment of the amount of any contributions, interest and penalties required to be paid under this chapter by filing a lien as prescribed in subsection (a) of this section against any employer who has not made such payments by the due date.

"(2) ATTACHMENT, ETC. — If, after due notice, an employer defaults in the payment of contributions, interest or penalties provided by this chapter, the amount due may be collected by civil suit in the name of the director, which shall include the right of attachment. Civil actions brought under this section to collect contributions, interest and penalties thereon from an employer shall be heard by the court at the earliest possible date, and shall be entitled to preference upon the calendar of the court over all other civil actions, except cases arising under chapter 5 of this title and article 5 of this chapter. In addition to or independently of the above remedy by civil action, the director may proceed in the manner set out hereinafter.

"(3) INJUNCTION AGAINST EMPLOYMENT. — After due notice an employer failing to make reports or defaulting in any payment of contribution or interest thereon, as levied under this chapter, for a period of 90 days after the date such reports or contributions are due, and who has not ceased to be an employer, as provided in sections 25-4-130 and 25-4-131, may be enjoined from employing individuals in employment, as defined in this chapter, upon the complaint of the director filed in the circuit court of any county in which the employer has his or its headquarters or his or its primary place of doing business; and such employer so failing to make reports or to pay contributions levied hereunder shall, as part of the court judgment or order, be enjoined from employing individuals in employment until such returns shall have been made and the contributions shown by any proceedings provided by this chapter to be due thereunder shall have been paid to the director.

"(4) GARNISHMENT. — The director shall have authority to issue writs of garnishment directed to any sheriff of Alabama on any final assessment made by the director and upon such garnishment the sheriff shall proceed the same as though the garnishment was issued by a circuit court, and he shall make due return thereof to the director within 60 days after the issuance thereof.

"(5) LEVY UPON EXECUTION. — Whenever any contributions, interest and penalties required to be paid under this chapter are not paid within 30 days of the date due and upon final assessment in any of the manners provided in this section, the director is authorized to issue an execution therefor directed to any sheriff of the state of Alabama, commanding him to levy upon and sell the real and personal property of the employer against whom such execution is directed, found in his county, for the payment of contributions and interest due, together with penalties assessed. The sheriff shall, within five days after the receipt thereof, file with the clerk of the circuit court of his county a copy thereof and thereupon the circuit clerk shall enter in the judgment roll in the column of judgment debtors the name of the employer named in the execution, the amount of contributions, interest and penalties for which the execution is issued and the date when such copy is filed. The sheriff shall thereupon levy upon any property of the employer with like effect and in the manner prescribed by law in respect to executions issued upon judgments of the circuit court and the remedies of attachment and garnishment shall apply fully to such executions and the officer shall be entitled to the same fees for his services as now allowed by law for like services, to be collected in the same manner as now provided by law for like services. The sheriff shall make due return of such execution within 60 days of the issuance thereof to the director and upon such return alias executions may be issued by the director and such shall be executed in the same manner. Whenever any execution is issued by the department of industrial relations for the collection of any unemployment compensation taxes owing said department by an employer, such execution, duly attested by the director of said department or his authorized agent, shall be sufficient warrant to the sheriff to whom the same is directed to levy on the property of the employer against whom said execution is directed and the sheriff shall forthwith execute such writ without demanding or requiring any indemnifying bond or other protective obligation, and the said writ of execution issued by the department for the collection of unemployment taxes due it shall be sufficient defense to any civil action for damages on any grounds other than the willful, wanton or malicious conduct of the officer making the levy. Sales under executions issued hereunder shall be held as provided by the laws of Alabama. At any such sale the director or his authorized agent shall be empowered to act on behalf of the state of Alabama in bidding at any such sale.

"(c) Assessments.

"(1) ASSESSMENT OF CONTRIBUTIONS AND PENALTIES DUE.

"a. If an employer fails to make and file with the department any report as and when required by the terms and provisions of this chapter or by any rule and regulation of the director for the purpose of determining the amount of contributions due by said employer under this chapter, the director may issue a written notice by registered or certified mail to such employer, addressed to his last known address or place of business, to make such report or reports forthwith, and if such employer fails or refuses to make such report within 15 days from the date of such notice, then the director shall make a report for such employer upon such information as he may reasonably obtain, and shall assess the contributions and penalties due thereon and interest at the rate of one percent per month, or fraction thereof, from the date such contributions were due.

"b. If an employer who has made and filed with the department any report required and such report is signed by the employer or his duly authorized representative but he has not paid, or has not paid in the correct amount, any contribution due within 30 days from the date due, then the director shall assess the correct amount of contributions due to be paid, along with penalties due thereon and interest at the rate of one percent per month, or fraction thereof, from the date such contributions were due, without any further notice or hearing as is provided for in subdivision (2) of this subsection (c) and such assessment shall be final unless an appeal is taken as is provided in subdivision (3) of this subsection (c).

"c. If any report which is filed is deemed by the director to be incorrect, incomplete or insufficient, the director may issue a written notice by registered or certified mail to such employer, addressed to his last known address or place of business, to make such report correct, complete or sufficient forthwith, and if such employer fails or refuses to do so within 15 days from the date of such notice, then the director shall make such corrections or completions upon such information as he may reasonably obtain and shall, without further notice or hearing, assess the contribution and penalties due thereon and interest at the rate of one percent per month or fraction thereof from the date such contributions were due and such assessment shall be final unless an appeal is taken as is provided in subdivision (3) of this subsection (c).

"(2) NOTICE OF ASSESSMENT AND HEARING: REVISION OF ASSESSMENT.

"a. Whenever the director shall make an assessment against an employer as provided in this section, the director shall notify the employer by registered or certified mail of the amount of such assessment and shall notify the employer to appear before him on a day named not less than 15 days from the date of such notice and show cause why such assessment should not be made final. Such appearance may be made by agent or attorney. If no showing is made on or before the date fixed in said notice or if such showing is not sufficient in the judgment of the director, such assessment shall be made final in the amount originally fixed or in such other amount as is determined by the director to be correct. If, upon such hearing, the director finds the amount due to be different from that originally assessed, he shall make the assessment final in the correct amount and in all cases shall notify the employer of the assessment as finally fixed. A notice by the United States registered or certified mail addressed to the employer's last known address or place of business shall be sufficient. Any assessment made by the director shall be prima facie correct upon appeal.

"b. If, after the assessment has become final, the employer files the report for the period covered by the assessment and the report is substantiated by reasonable evidence, the director may, for good cause and at his discretion correct the assessment, either upward or downward, provided the report and substantiation is filed with him not later than four years after the date on which the report originally became due.

"(3) APPEAL FROM ASSESSMENTS.

"a. Whenever any employer who has protested an assessment by the director under the provisions of paragraph a. of subdivision (2) of this subsection (c), is dissatisfied with the assessment as finally made, he may appeal as provided in this subdivision.

"b. If an employer against whom an assessment is made by the director is dissatisfied with the final assessment as fixed by the director under any of the provisions of subdivision (1) of this subsection (c) and duly protests the fixing of the same, he may appeal from said final assessment to the circuit court of Montgomery county, or to the circuit court of the county in which the employer resides or has his principal place of business, if the employer has within the state a permanent residence, at the option of the employer, by filing notice of appeal with the director and with the register of the circuit court of the county to which appeal shall be taken, within 30 days of the date of the final assessment made and entered on the minutes of the department, and in addition thereto by giving bond conditioned to pay all costs, to be filed with and approved by the register or clerk of the court to which the appeal

shall be taken. The employer shall pay the assessment so made before the appeal is filed, or the court shall upon motion dismiss such appeal, unless at the time of taking the appeal the employer has executed a supersedeas bond with sufficient sureties to be approved by the register or clerk of the court to which the appeal shall be taken in double the amount of contributions, interest and penalties, payable to the director, conditioned to pay all contributions, interest, penalties and costs found to be due the department of industrial relations. In such appeal, the employer shall be styled the appellant and the director shall be styled the appellee. The assessment made by the director shall be prima facie correct, and the burden shall be on the employer to show that such assessment is incorrect. The circuit court, or court of civil appeals or the supreme court of Alabama on appeal, may, if it be of the opinion from all the evidence that the assessment as made is either too high or too low, fix the amount of such assessment. The court shall hear such appeals according to its own rules and methods of procedure so far as practicable and shall decide all questions both as to legality of the assessment and the amount thereof. No court shall have the power to enjoin the payment of any contributions, interest or penalty due on such assessment so appealed or to suspend the payment thereof. From the judgment of the circuit court, the employer or the director may appeal to the court of civil appeals if the amount involved, exclusive of interest and costs, does not exceed $10,000.00, or to the supreme court of Alabama if said amount exceeds $10,000.00, within 30 days of the rendition of the judgment upon giving such security for the cost of such appeal as approved by the register or clerk of the circuit court from which the appeal shall be taken. If upon such appeal the assessment made by the director is reduced, the court, upon proof of payment of said contributions, interest and penalties, shall ascertain and recite such fact in the judgment and shall ascertain and determine by its judgment and order the amount of contributions, interest and penalties which was invalid and the director shall thereupon refund to the employer the amount so ascertained by the court to be invalid.

"(4) COLLECTION OF ASSESSMENTS. If contributions, interest or penalties are not paid within 15 days from the date of final assessment where no appeal is taken, or within 15 days of the date upon which any decision is issued upon an appeal is made final, the director shall take any action to collect as he may be authorized by any of the provisions of this section.

"(d) Bonds.

"(1) SURETY BOND OR CASH DEPOSIT FROM CONTRACTOR. — Any contractor primarily engaged in contract construction

who is or becomes an employer, as defined by this chapter, and who is or becomes delinquent for any contributions due under this chapter may be required to post with the director a blanket surety bond by a licensed surety company authorized to do business in the state of Alabama in any amount which the director shall determine to be sufficient for the payment of all unemployment compensation taxes which will be due to the state for a period of not less than one year by virtue of its operations. In the alternative, said contractor may file a surety bond with respect to each contract. Further, in lieu of such security bond, he or it may deposit with the director in cash an amount equal thereto. These deposits shall be held by the director in a special deposit fund account established for that purpose; provided further, no bond or cash deposit shall be required for an amount to exceed $10,000.00 unless in the opinion of the director a larger amount is necessary.

" (2) WITHHOLDING OF LICENSE FROM CONTRACTOR. — The Alabama state licensing board for general contractors or any other licensing agency of the state of Alabama is hereby authorized to, and upon petition by the director shall, withhold any license from any contractor subject to the provisions of this section until the provisions of this subsection (d) have been complied with.

"(3) RELEASE OF CONTRACTOR. — Any 'employer' contractor shall cease to be subject to the provisions of this subsection (d) after he or it has been an employer as defined in this chapter within this state for a period of 12 calendar quarters and has paid all contributions due under the provisions of this chapter. Any employer who ceases to be subject to the provisions of this subsection (d) as provided in this subdivision or was excepted under the provisions of subdivision (1) of this subsection (d) and who later became delinquent for any contributions shall again become subject to such provisions until he or it again becomes eligible for release in accordance with the provisions of this subsection (d). When any contractor ceases operations or is otherwise released from the requirements under this section, he or it shall be entitled to have his or its bond cancelled or cash deposit refunded upon payment of all contributions, interest and penalties due under the provisions of this chapter.

"(4) PROCEEDINGS AGAINST SURETY, ETC. — If an 'employer' contractor fails to pay any contributions, interest and penalties provided for in this chapter when they become due, the director may call upon the surety company for the payment thereof or cause them to be paid by deducting the amount due from the contractor's cash deposit. Any employer subject to the provisions of this subsection (d) who fails to comply thereto shall be enjoined

from any further operations until the provisions of this subsection (d) have been complied with."

Section 3. For the purpose of using the fiscal year which begins on July 1, 1995 as a base year for computing tax rates for contributory employers, this bill shall have retroactive effect to July 1, 1995.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 7, 1995

Time: 10:07 A.M.

Act No. 95-312 S. 314 – Senator Figures

AN ACT

To amend Section 11-49-80, Code of Alabama 1975, to provide that the annexation of unincorporated territory into a municipality, after the effective date of this act, shall result in the municipality assuming responsibility to control, manage, supervise, regulate, repair, maintain, and improve all public streets or parts thereof lying within the territory annexed, under certain conditions; to provide that nothing contained within the bill shall require municipality to assume responsibility to control, manage, supervise, regulate, repair, maintain, or improve any street or part thereof located within the territory annexed which was not being controlled, managed, supervised, regulated, repaired, maintained, and improved by the county prior to the effective date of the annexation, with certain exceptions; to provide that the responsibility for the control, management, supervision, regulation, repair, maintenance, or improvement of public streets or parts thereof lying within the corporate limits of an incorporated municipality on the effective date of this act shall remain the responsibility of the entity responsible for such public streets or parts thereof on the effective date of this act; and to authorize a county and municipality to enter into a mutual agreement providing for an alternative arrangement for the control, management, supervision, regulation, repair, maintenance, or improvement of public streets or parts thereof lying within the corporate limits of an incorporated municipality.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11-49-80, Code of Alabama 1975, is amended to read as follows:

"Section 11-49-80.

"(a) Where the authority to control, manage, supervise, regulate, repair, maintain and improve a street or streets or part thereof lying within a municipal corporation is vested in the county commission of the county within which a municipal corporation is located, a municipal corporation may resume or take over the authority to control, manage, supervise, repair, maintain and

improve such street or streets or part thereof designated in the resolution adopted by the governing body of a municipal corporation to resume or take over such authority.

"(b) Notwithstanding the adoption of a resolution as required in Sections 11-49-80 and 11-49-81, Code of Alabama 1975, the annexation of unincorporated territory into a municipality, after the effective date of this act, shall result in the municipality assuming responsibility to control, manage, supervise, regulate, repair, maintain, and improve all public streets or parts thereof lying within the territory annexed, provided such public streets or parts thereof were controlled, managed, supervised, regulated, repaired, maintained, and improved by the county for a period of one year prior to the effective date of the annexation. The annexation of unincorporated territory into a municipality shall also result in the municipality assuming responsibility to control, manage, supervise, regulate, repair, maintain, and improve all public streets or parts thereof lying within the territory annexed, provided such public streets or parts thereof were dedicated to, accepted by, and were controlled, managed, supervised, regulated, repaired, maintained, and improved by the county for a period of less than one year prior to the effective date of the annexation when such public streets or parts thereof were also approved upon construction by the municipal planning commission of the annexing municipality. Except as herein provided, this act shall not require a municipality to assume responsibility to control, manage, supervise, regulate, repair, maintain, or improve any street or part thereof located within the territory annexed which was not being controlled, managed, supervised, regulated, repaired, maintained, and improved by the county prior to the effective date of the annexation. Further, nothing in this act shall require a county to assume responsibility to control, manage, supervise, regulate, repair, maintain, or improve any street or part thereof located within the territory annexed which was not being controlled, managed, supervised, regulated, repaired, maintained, and improved by the county prior to the effective date of the annexation.

"(c) After the effective date of this act, when the annexation of unincorporated territory by a municipality results in a public street or part thereof which was dedicated to, accepted by, and was controlled, managed, supervised, regulated, repaired, maintained, and improved by the county for a period of one year prior to the effective date of the annexation, or for a period of less than one year prior to the effective date of the annexation when such public street or part thereof was approved upon construction by the municipal planning commission, being located outside the corporate limits of the annexing municipality while at the same time bounded on both sides by the corporate limits of the annexing

municipality, the county governing body shall consent to the annexation of such public street or part thereof by the municipality. Once consent is given by the owners of such public street or part thereof to annexation by the municipality, the municipality shall annex that portion of the public street or part thereof which is bounded on both sides by the municipal corporate limits. Once such annexation becomes effective, the municipality shall assume responsibility for the public street or part thereof as provided in subsection (b), above.

"(d) The responsibility for the control, management, supervision, regulation, repair, maintenance, or improvement of public streets or parts thereof lying within the corporate limits of an incorporated municipality on the effective date of this act shall remain the responsibility of the entity responsible for such public streets or parts thereof on the effective date of this act.

"(e) Nothing contained in Sections 11-49-80 and 11-49-81, Code of Alabama 1975, shall prohibit a county and municipality from entering into a mutual agreement providing for an alternative arrangement for the control, management, supervision, regulation, repair, maintenance, or improvement of public streets or parts thereof lying within the corporate limits of an incorporated municipality."

Section 2. If any section or provision of this act is declared unconstitutional, it shall not affect the remaining sections or provisions of this act.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved July 7, 1995

Time: 10:10 A.M.

Act No. 95-313 H. 466 – Reps. Turner, Hooper, Thomas (D), Knight (A), Sanderson, Hill, McKee, Jorgensen, Carns, Wren, McMillan, Pringle, Dean, Sanderford, Maull, Baker, Collins, Minnifield, Gipson, Guin

AN ACT

To establish an accountability plan which shall be overseen by the State Board of Education; to require the use of the nationally normed test to assess student achievement; to require the development of a core curriculum to be offered at all grade levels; to provide for the development of a character education program by

the state and local boards of education; to develop an assistance program for individual students who are scoring one or more grade levels below the national norm; to assist schools that have a majority of students scoring one or more grade levels below the national norm; to establish a program of self-help and state intervention; to provide for school safety and discipline accountability; to assist local boards of education who have a majority of their schools in which a majority of their students are scoring at one grade level or more below the national norms; to provide for state intervention of a school or a local board of education based on below average student achievement or financial instability; to provide for financial accountability in allocation of funds to schools, to require local budgets and financial statements that are cost centered, program and fund based; to provide for a method of intervention and a method of release from state intervention; to provide for participation in the foundation program funding and to establish requirements for participation in the foundation program; to require accountability reports to the public; to establish certain requirements for the development of school budgets and to provide that school allocations shall be budgeted and expended at the classroom level; to restrict the use of funds allocated for salaries; to require the State Superintendent of Education to develop a plan to reduce the paperwork required to be completed by classroom teachers; and to repeal certain sections of the Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. STUDENT ACHIEVEMENT.

The Legislature finds that the people of Alabama desire two basic things from their public schools: (1) high achievement for students (2) a safe and orderly environment in which to learn. The Legislature encourages the State Board of Education to assist local boards of education in the development of a strong disciplinary policy and directs the State Board of Education to develop a program to closely monitor student achievement. The State Board of Education shall require implementation of a nationally normed test to assist in the assessment of student achievement in grades three through eleven by using such instruments as the Stanford Achievement Test, the California Achievement Test or other nationally normed tests and shall further require such other tests and assessments as it may deem necessary. There is no legislative intent to interfere with the provisions of Section 16-3-18.3 of the Code of Alabama 1975, and it is the intent of the Legislature that the development of the total assessment program for student performance, exclusive of the requirements of student performance herein, shall be the function of the State Board of Education. The State Board of Education is instructed to develop courses of study to provide Alabama students with the content and information to enter the workforce, to compete nationally and internationally with other students, and/or to successfully compete at the postsecondary level. This shall include the content necessary to successfully achieve on nationally normed tests and any other tests that may be required by the State Board of Education.

Section 2. CORE CURRICULUM.

Every Alabama student must be given instruction in grades kindergarten through twelve to prepare him or her to enter the world of work and/or to complete course work at the postsecondary level. In addition to a comprehensive core curriculum of academics each local board of education shall offer a program of vocational/technical education.

(a) The following words and phrases used in this section shall, in the absence of a clear implication otherwise, be given the following respective interpretations:

(1) "Required courses" means courses which are required to be taken by every student enrolled in public schools in the state of Alabama.

(2) "Elective courses" means courses which are neither mandatory nor required to be taken by any student enrolled in public schools in the state of Alabama.

(b) The legislature finds that students must become more literate in the basic skills needed to earn a living or to continue their education. The legislature further finds that the English language is a common bond that holds our society together. It is necessary that the State Board of Education adopt curriculum policies to ensure that Alabama students have a command of the spoken and written English language. The legislature further finds that in Alabama schools, students earning a standard high school diploma are only required to earn two credits of mathematics after they enter the ninth grade prior to graduation. The legislature further finds that special attention must be given to the Alabama courses of study. The State Board of Education shall establish a rigorous and meaningful core curriculum including but not limited to the following courses for grades nine through twelve in public schools to be phased in beginning with students entering ninth grade in the 1996-97 scholastic year:

(1) Four years (equivalent of four credit units) of English;

(2) Four years (equivalent of four credit units) of mathematics, including but not limited to material designed to ensure that no high school student fails to learn basic mathematical skills and computer literacy;

(3) Four years (equivalent of four credit units) of science; and

(4) Four years (equivalent of four credit units) of social studies with an emphasis on history, music history, fine arts history, geography, economics and political science. History courses shall include material on the history of the United States and the Constitution of the United States. The legislature further requires that the curriculum content of American history shall include the

teaching of important historical documents including the Constitution of the United States, The Declaration of Independence, The Emancipation Proclamation, The Federalist Papers, and other such documents important to the history and heritage of the United States.

(c) It is the intent of the legislature that credit for required basic core academic courses may be earned in conjunction with vocational courses and/or programs. It is the intent of the legislature that local boards of education offer and schedule students into vocational programs.

(d) It is the intent of the legislature that, in addition to the required courses, elective courses including but not limited to foreign languages, fine arts, physical education, wellness education, vocational and technical preparation, be available to all students as determined by the local board of education. Nothing in this Act shall be construed to diminish the current requirements of the State Board of Education with respect to Health and Physical Education instruction in grades K-12 or to reduce the effect of Section 16-40-1, Code of Alabama, 1975, regarding Health and Physical Education.

(e) The State Board of Education shall adopt necessary policies, procedures, rules, regulations and standards to require that:

(1) The required courses set forth in this section must be taken by every student enrolled in grades nine through twelve of public schools to be phased in beginning with students entering the ninth grade in the 1996-97 scholastic year. The State Superintendent of Education after a hearing in which he or she determines there exists just cause may grant a one-time delay of one year for a school system from implementation of any one of the required courses.

(2) The required courses set forth in this section must be successfully passed by a student enrolled in grades nine through twelve of public schools prior to such student's graduation or receipt of a diploma, phased in beginning with students entering the ninth grade in the 1996-97 scholastic year; provided, however, students identified as eligible for special education services as provided by federal and state law shall be required to meet the provisions set forth in the individual education plan prescribed to meet their individual needs as required by law. The State Board of Education shall continue to set graduation requirements; however, such graduation requirements shall not provide less in the way of requirements in the areas of English, math, science, and social studies as provided in this act.

(3) In addition to the required courses a number of elective courses must be successfully passed by a student enrolled in grades nine through twelve of public schools prior to such student's graduation or receipt of a diploma, phased in beginning with students entering the ninth grade in the 1996-97 scholastic year. The State Board of Education shall determine the number and classification of units of credit required for high school graduation.

(f) The State Board of Education, on the recommendation of the State Superintendent of Education, shall prescribe the minimum contents of courses of study for all public elementary and high schools in the state. In every elementary school there shall be taught at least reading including phonics, spelling, handwriting, arithmetic, oral and written English, geography, history of the United States and Alabama, elementary science, hygiene and sanitation, physical education, the arts, including musical and visual arts, environmental protection, and such other studies as may be prescribed by the local board of education. Moreover, the State Board of Education shall require the following courses for grades one through eight in all public schools to be phased in beginning with students entering grades one through eight in the 1995-96 scholastic year: English, social studies, mathematics and science shall be taught each year in grades one through eight. English shall include, but not be limited to, material designed to develop language arts, such as reading, writing, speaking and listening skills. Social studies shall emphasize geography and history of the United States and Alabama.

(g) The State Board of Education shall adopt necessary policies, procedures, rules, regulations and/or standards to require college and university departments of education to review their existing educational programs for all prospective teachers in order to ensure that they are properly prepared to teach the courses required by law.

(h) The State Board of Education and all local boards shall develop and implement within ninety (90) days of the effective date of this Act a comprehensive character education program for all grades to consist of not less than ten minutes instruction per day focusing upon the students' development of the following character traits: courage, patriotism, citizenship, honesty, fairness, respect for others, kindness, cooperation, self-respect, self-control, courtesy, compassion, tolerance, diligence, generosity, punctuality, cleanliness, cheerfulness, school pride, respect for the environment, patience, creativity, sportsmanship, loyalty, and perseverance. Each plan of instruction shall include the Pledge of Allegiance to the American Flag.

(i) The State Board of Education shall adopt necessary policies, procedures, rules, regulations, and/or standards to ensure quality vocational/technical education programs.

Section 3. ASSISTANCE PROGRAMS.

(a) Student Strategy - The superintendent of the local board of education along with the staff of each school shall develop an assistance program at each school for at-risk students performing below the standards set by the State Board of Education, said standards including the results of the normed reference testing program with emphasis on students who are found to be at one or more grade levels below the national norm. The local board of education shall budget at least $100 per student so identified to be expended on tutorial assistance programs including but not limited to after school, Saturday school, and/or summer school. These funds may be budgeted from state or federal funds. However, federal funds already budgeted for at-risk students may not be counted toward the minimum $100 requirement set aside to be expended for at-risk students as defined in this act. In addition, these funds may be expended for any of the following purposes:

1. Programs to encourage at-risk five-year olds to attend an approved preschool program.

2. Programs to identify at-risk students in the first grade.

3. Programs to ensure strict enforcement of truancy laws.

4. Programs to create alternative or disciplinary schools in which children who consistently exhibit behaviors or patterns of behaviors that interfere with the learning environment of other students would be placed and would be provided counseling and instruction in basic skills.

5. Programs to encourage parental involvement of parents of at-risk children.

6. Programs to encourage literacy of parents of at-risk children.

(b) School Strategy - The State Board of Education shall develop an assistance program for a school in need of assistance. A school in need of assistance shall mean any school which has a majority of its students scoring one or more grade levels below the national norm on the state adopted achievement test. Local superintendents and local boards of education will be expected to make the effort and commit the resources necessary to improve the instructional program for a school in need of assistance and shall be required to budget funds earned by such school in the cost

calculations of the foundation program. Local superintendents and local boards of education are encouraged to use assistance from the state department of education, colleges of education, accrediting agencies and other sources.

The State Board of Education's plan for an assistance program must consist of the following components:

(1) The faculty and staff of each school in need of assistance shall engage in a self-study to examine the problem of low achievement within that school and shall develop steps which may be taken to improve student achievement. Parents of students in such schools shall be consulted as part of this self-study.

(2) If after two years student achievement has not improved, the State Superintendent of Education shall designate a team of practicing professionals who will visit the school, conduct a study, consult with parents of students in the school, and analyze causes of poor student achievement and make specific recommendations which shall become a part of a school improvement plan for the succeeding year.

(3) As a final step, when insufficient or no improvement as determined by the State Board of Education is evident from the implementation of steps one and two above, the State Superintendent of Education is required to intervene and to appoint a person or persons to run the day-to-day operation of the school. In considering intervention, the State Board of Education shall consider factors which may have affected the national norm test score, such factors shall include drop-out rates, attendance rates, special education enrollment, and any other data necessary to properly interpret student achievement in each school.

(c) School System Strategy - The State Board of Education shall develop an assistance program for a local board of education identified as being in need of assistance. A local board of education in need of assistance shall mean any local board of education which has a majority of its schools or a majority of the students in a system in which the students are scoring one or more grade levels below the national norm.

The State Board of Education shall require a local board of education in a need of assistance to do the following:

(1) The local board of education and the local superintendent with input from other administrators, teachers, staff, parents of students in the school, and the local community shall engage in a self-study to examine the problem of low achievement within the system and to develop steps which may be taken to improve student achievement.

(2) If after two years student achievement has not improved, the State Superintendent shall develop a system-wide school improvement plan in consultation with teachers, parents of students in the school, and the local community. This school improvement plan shall become a part of the local board of education's program and financial operations for the succeeding year.

(3) If after the implementation of the school improvement plan student achievement has not sufficiently improved, relative to its previous year's performance, the State Board of Education shall require the State Superintendent of Education to intervene and assume the direct management and day-to-day operation of the local board of education for such period of time as may be necessary for student achievement to improve. In considering intervention, the State Board of Education shall consider factors which may have affected the national norm test score, such factors shall include drop-out rates, attendance rates, special education enrollment, and any other data necessary to properly interpret student achievement in each system.

(d) It is the intent of the Legislature to make it clear to the State Board of Education that intervention is not to occur when a school or school system scores below the national average. Intervention by the State Board of Education is to occur only after the three-year period provided in this act during which a school or school system fails to show improvement. So long as improvement is being shown, the State Board of Education shall not intervene but shall continue to encourage the school to improve.

Section 4. FINANCIAL ACCOUNTABILITY.

In addition to providing quality instruction in classrooms, all local boards of education must be fiscally accountable. The local boards of education shall be required to provide annually financial documents, including but not limited to annual budgets and financial statements which are cost center based (school, area vocational/technical center), program based (regular education, special education, vocational education, etc.), and funding source based (local, state and federal). Just as local boards of education may be in need of assistance based on student achievement, they may also be in an unsound fiscal condition. The State Board of Education is directed to require, approve and audit budgets, financial statements, and other reports which may be deemed necessary to assess the financial stability of each local board of education. If a local board of education is determined to have submitted a fiscally unsound budget, the state department of education will provide assistance to complete and submit a revised budget. If during the assistance in preparing a revised budget the State Superintendent

of Education determines that the local board of education is in an unsound fiscal position, a person or persons will be appointed by the State Superintendent of Education to advise the day-to-day financial operations of the local board of education. If after a reasonable period of time the State Superintendent of Education determines that the local board of education is still in an unsound fiscal condition, a request will be made to the State Board of Education for the direct control of the fiscal operation of the local board of education. Upon approval by the State Board of Education, the State Superintendent of Education will appoint an individual to be chief financial officer to manage the fiscal operation of the local board of education. The chief financial officer shall perform his or her duties in accordance with rules and regulations established by the State Board of Education in concert with applicable Alabama law. Persons appointed by the State Superintendent of Education to serve as chief financial officer to manage the fiscal operation of a local board of education shall be required to give bond with a surety company authorized to do business in Alabama and shall not be required to receive approval of the local superintendent to expend monies as provided in Sections 16-8-33 and 16-11-6 of the Code of Alabama 1975. The State Superintendent of Education shall have the authority to review decisions of the chief financial officer and the local board of education pursuant to Section 16-4-8 of the Code of Alabama 1975.

Section 5. SCHOOL SAFETY AND DISCIPLINE ACCOUNTABILITY.

In addition to providing quality instruction in classrooms and fiscal soundness, all local boards of education shall be accountable for compliance with statutes and regulations regarding school safety and discipline. The State Department of Education shall send to all local boards of education and all local superintendents of education, on or before August 1 of each year, a manual containing all acts of the Legislature and all regulations promulgated by the State Board of Education which pertain to school safety and discipline. Within thirty (30) days of receipt of this manual, each local board of education shall provide to the State Board of Education a report, in the form prescribed by the State Department of Education, describing its compliance with these acts and regulations. If a local board of education is determined by the State Board of Education to have failed to comply in any material respect with these acts and regulations, the State Department of Education shall provide assistance to obtain compliance. If after one year, the State Board of Education determines that a local board of education refuses or fails to come into compliance with these acts and regulations, the State Superintendent of Education

shall intervene in and assume the direct management and day-to-day operation of the local board of education for such period of time as the State Board of Education deems necessary to bring that local board of education into compliance with these acts and regulations.

Section 6. RELEASE FROM INTERVENTION.

Management of a school or local board of education occasioned by state intervention based on student achievement or financial instability shall continue until such time as either condition improves to an acceptable level. The local board of education may petition the State Board of Education for release from state intervention by showing acceptable improvement in achievement or financial stability or other just cause for such release. The State Board of Education following a hearing shall have final determination on the matter of release from state intervention.

Section 7. ACCOUNTABILITY REPORTS TO THE PUBLIC.

(a) The local board of education shall prepare an annual accountability report for each school and area vocational/technical center under its jurisdiction, and for itself, to be provided to the public under regulations promulgated by the State Board of Education. Such accountability reports shall include, but not be limited to, all of the following:

(1) A Funding and Expenditure Report which shall include those documents specified in Section 4 and which shall include the amount of foundation program funds or vocational/technical education funds, or both, earned and of all funds expended and any other data deemed necessary by the local board of education or the State Board of Education to inform the public about the financial status of each school.

(2) A Student Achievement Report which shall include a comparison of the immediately previous school year with the previous five years regarding student performance on testing required by the State Board of Education, dropout rates, attendance rates, graduation rates, college attendance, and any other data deemed necessary by the local board of education or the State Board of Education to inform the public about student achievement in each school.

(3) A School Safety and Discipline Report which shall include statistical information relating to student safety and discipline in each school and any other data deemed necessary by the local board of education or the State Board of Education to inform the public about safety and discipline in each school.

(b) These reports shall be released to the media, presented to parent organizations, members of the Legislature who represent the schools covered in each report, and the State Superintendent of Education. These reports shall be made available to the public upon request on or before ninety (90) days after the end of the fiscal year.

Section 8. PARTICIPATION IN FOUNDATION PROGRAM.

(a) In order for a local board of education to participate in the state foundation program certain conditions must be met. The teacher salary schedule of the local board of education must be at least ninety-five percent (95%) of the amount specified within the state salary matrix delineated by cell for the type of degree and years of experience of each teacher. All funds allocated to a local board of education for teacher salaries must be spent for salaries in the instructional program.

(b) In order for a local board of education to participate in the state vocational/technical education program certain conditions must be met. The teacher salary schedule of the local board of education must be at least 95 percent of the amount specified within the state salary matrix adjusted for extended contracts delineated by cell for the type of degree and years of experience of each teacher. All funds allocated to a local board of education for teacher salaries must be spent for salaries in the instructional program.

(c) Each area vocational center shall earn a principal (director) and shall continue to earn a counselor should it have received a counselor unit in 1994-95. Further, it is the intent of the Legislature that area vocational centers that are serving more than one school system continue to do so. Each participating local board must assume a pro rata share of the cost of personnel and operating cost of the vocational center. However, should any local board choose in the future to withdraw from participation in an area vocational center, such local board shall assume its pro rata share of the cost of personnel and operating expenses occurring as a result of its withdrawal. If no satisfactory financial agreement can be reached between that local board and other participating local boards, the State Superintendent shall conduct an inquiry and shall render a decision which shall be final and binding. Finally, as a result of hold harmless and federal requirements of maintenance of effort, no local board shall be permitted to spend fewer state dollars for vocational/technical education than it did during the 1994-95 school year.

Section 9. SALARY ALLOCATIONS.

No funds shall be transferred by any board of education from salary allocations to any other expenditure or for any other purpose. In times of proration, salaries shall not be subject to proration.

Section 10. BUDGET REQUIREMENTS FOR FOUNDATION AND VOCATIONAL/TECHNICAL EDUCATION PROGRAM.

(a) Foundation Program. It is the intent of the legislature to see that funds allocated for classroom instructional support actually reach the classroom. To that end, the state department of education shall monitor the flow of funds appropriated for various instructional purposes. Classroom instructional support shall be defined as those funds appropriated for instructional supplies, library enhancement, textbooks, technology and professional development. The legislature believes that the classroom instructional support funds have a direct impact upon the ability of classroom teachers to have the resources and assistance necessary to assist them in the performance of their responsibilities. School budgets for instructional supplies shall be developed within each school using the procedures outlined in Section 16-36-29.1 and as is required by Act 95-121 of the 1995 Regular Session of the Legislature of Alabama relating to the adoption of school board policies. It is the intent of the legislature that teachers shall have direct input in the development of their school's budget for classroom instructional support and in the expenditure of these funds. The legislature realizes that teachers and principals cannot be held accountable unless they have the authority to use resources provided them by legislative appropriations. As each school's budget is developed, local boards of education shall ensure principals and classroom teachers are given the opportunity to participate in decisions concerning the appropriate use and expenditure of classroom instructional support funds. Where the principal or the teachers have not been granted the right to have direct input in the development of their school's budget or are restrained in the expenditure of instructional supply funds, they may petition the State Superintendent of Education for relief pursuant to rules and regulations promulgated by the State Department of Education. Because the legislature believes classroom instructional support funds to be critically important, the following conditions will apply to the budgeting process of each local board of education:

(1) Classroom instructional materials and supplies must be budgeted for all teachers at the rate appropriated per teacher unit by the legislature in the Foundation Program.

(2) Textbook funds must be budgeted for all students based on the rate appropriated per student by the legislature in the foundation program.

(3) Technology funds must be budgeted for all teachers based on their rate appropriated per teacher unit by the legislature in the foundation program.

(4) Professional development funds must be budgeted for all teachers based on the rate appropriated per teacher unit by the legislature in the foundation program.

(5) Library enhancement funds must be budgeted for all teachers based on the rate appropriated per teacher unit by the legislature in the foundation program. The library enhancement appropriation shall be for K-12 Public School Library/Media Centers and is an absolute appropriation. Expenditures may include books, book binding, repair, CD Roms, computer software, computer equipment, cataloging, audio-visual materials, newspapers, magazines, recordings, and video tapes.

(6) In addition to classroom instructional support, leave (sick and personal) must be budgeted for all teachers based on the number of days and the rate per day used by the legislature in calculating the cost in the foundation program.

(7) The principal of a local school in consultation with the teacher(s) so affected may request a waiver from subdivisions (2) through (5). The waiver shall be presented to the local superintendent of education. Upon concurrence, the local superintendent of education shall request a waiver from the State Superintendent of Education, which application shall be deemed to be granted unless affirmatively rejected in writing by the State Superintendent within 30 days of its receipt.

(b) Vocational/Technical Education Program. It is the intent of the legislature to see that funds allocated for classroom instructional support actually reach the classroom. To that end, the State Department of Education shall monitor the flow of funds appropriated for various instructional support which shall be defined as those funds appropriated for instructional supplies, textbooks, technology, and professional development. The Legislature believes that the classroom instructional support funds have a direct impact upon the ability of classroom teachers to have the resources and assistance necessary to assist them in the performance of their responsibilities. School budgets for classroom instructional support shall be developed within each school using the procedures outlined in Section 16-36-29.1 and as is required by Act 95-121 of the 1995 Regular Session. It is the intent of the Legislature that teachers shall have direct input in the development of their school's budget for classroom instructional support and in the expenditure of these funds. The Legislature realizes that teachers and principals cannot be held accountable unless

they have the authority to use resources provided them by legislative appropriations. As each school's budget is developed, local boards of education shall ensure classroom teachers are given the opportunity to make decisions concerning the appropriate use and expenditures of classroom instructional support funds. Where the principal or the teachers have not been granted the right to have direct input in the development of their school's budget or are restrained in the expenditure of classroom instructional support funds, they may petition the State Superintendent of Education for relief pursuant to rules and regulations promulgated by the State Department of Education. Because the Legislature believes classroom instructional support funds to be critically important, the following conditions will apply to the budgeting process of each local board of education:

(1) Classroom instructional materials and supplies must be budgeted for all teachers at the rate appropriated per teacher unit by the Legislature in the vocational/technical education program.

(2) Textbook funds must be budgeted for all students based on the rate appropriated per student by the Legislature in the vocational/technical education program.

(3) Professional development funds must be budgeted for all teachers based on the rate appropriated per teacher unit by the Legislature in the vocational/technical education program.

(4) In addition to classroom instructional support, leave (sick and personal) must be budgeted for all teachers based on the number of days and rate per day used by the Legislature in calculating the cost in the vocational/technical education program.

(5) The principal of a local school in consultation with the teacher(s) so affected may request a waiver from subdivisions (2) and (3). The waiver shall be presented to the local superintendent of education. Upon concurrence, the local superintendent of education shall request a waiver from the State Superintendent of Education, which application shall be deemed to be granted unless affirmatively rejected in writing by the State Superintendent within 30 days of its receipt.

Section 11. TEACHER PAPERWORK REDUCTION PLAN.

The State Superintendent of Education shall develop a plan to be approved by the State Board of Education to reduce the paperwork which is required to be completed by the school system including the classroom teachers. The goal shall be to reduce teacher paperwork by at least fifty percent (50%) before the beginning of the 1996-97 scholastic year. Further, the plan shall work toward the development of automated student records in all schools.

Section 12. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 13. All laws or parts of laws which conflict with this act are hereby repealed and specifically Sections 16-3-15, 16-3-17.2, 16-3-18.2, 16-3-18.4 and 16-13-15 of the Code of Alabama 1975, are hereby repealed. Notwithstanding the repeal of the foregoing sections, the State Board of Education shall review and develop appropriate policies regarding at-risk students, social promotion, and school accreditation.

Section 14. This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law, and shall be implemented with the beginning of the 1995-96 scholastic year.

Approved July 7, 1995

Time: 10:20 A.M.

Act No. 95-314 H. 468 – Reps. McMillan, Hooper, Thomas (D), Knight (A), Hill, McKee, Jorgensen, Fuller, Dean, Maull, Baker, Collins, Dolbare, Pringle, Clouse, Penry, Gipson, Guin

AN ACT

To amend Chapter 13 of Title 16 of the Code of Alabama 1975 and related provisions of the Code of Alabama 1975 to implement a foundation program for the annual funding of the public schools of the state to the extent necessary to provide educational opportunities according to the Constitution of Alabama for all students **in every local school district; to amend Sections 16-1-18, 16-4-5, 16-8-20, 16-8-20.1,** 16-13-7, 16-13-10, 16-13-11, 16-13-12, 16-13-13, 16-13-31, 16-13-32, 16-13-36, 16-13-37, 16-13-73, 16-13-76, 16-13-91, 16-13-121, 16-13-144, 16-13-145, 16-35-2, 16-36-3, 16-36-5, 16-36-6, 16-36-10, 16-36-12, 16-36-13, 16-36-15, 16-36-16, 16-36-17, 16-36-18, 16-36-23, 16-36-24, 16-36-25, 16-36-31, 16-36-32, 16-36-35, 16-36-36, 16-36-39, 16-39-10, 16-39-11, 25-4-150, and 40-12-4 of the Code of Alabama 1975; and to repeal Sections 16-1-1.1, 16-1-15.1, 16-1-29, 16-3-15, 16-3-17.1, 16-3-17.2, 16-3-18.1, 16-3-18.4, 16-3-18.5, 16-3-36, 16-6A-17, 16-13-3, 16-13-15, 16-13-30, 16-13-34, 16-13-35, 16-13-38, 16-13-39, 16-13-40, 16-13-50, 16-13-51, 16-13-52, 16-13-52.1, 16-13-53, 16-13-54, 16-13-55, 16-13-56, 16-13-57, 16-13-58, 16-13-59, 16-13-60, 16-13-61, 16-13-62, 16-13-63, 16-13-64, 16-13-65, 16-14-1, 16-14-2, 16-14-3, 16-14-4, 16-14-5, 16-14-6, 16-14-7, 16-14-8, 16-14-9, 16-14-10, 16-14-11, 16-14-12, 16-14-13, 16-14-14, 16-14-15, 16-14-16, 16-14-17, 16-14-18, 16-14-19, 16-23-13.1, 16-23-17, 16-26-4, 16-36-33, 16-39-7, and 21-1-20 of the Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby established a fund for the public schools of the state which shall be known as the foundation

program fund and which shall be used for providing a minimum school term and for providing educational opportunities. This fund shall comprise all appropriations made by the legislature to the credit of the foundation program fund and any other funds set aside for that purpose.

Section 2. (a) In addition to all other appropriations and apportionments of public school money now provided by law and made available for public schools there shall be apportioned and paid to local boards of education from the foundation program fund, the amounts to be determined as hereinafter provided and in accordance with regulations of the state board of education. This foundation program fund shall be used principally:

(1) To aid in providing at least a 175 day minimum school term; and,

(2) To assist in the promotion of educational opportunity for all children in the public schools.

(b) The following requirements and procedures, supplemented when necessary by regulations of the state board of education, shall govern the apportionment of the fund:

(1) REQUIREMENTS FOR PARTICIPATING IN FUND. — In order for a local board of education to share in the apportionment of the foundation program fund and to receive the maximum benefits therefrom, the board shall meet the following conditions:

a. The appropriate local governing body must insure that the local board of education within its jurisdiction is receiving an amount of local tax receipts equivalent to ten mills of school tax as computed from the most current assessed valuation of property which comprises the school tax district(s) of the local board of education. The state superintendent of education shall determine compliance with this provision of the law in accordance with rules or procedures adopted by the state board of education. In determining compliance for a county board of education, tax revenues provided to the county board of education from the county, from whatever tax source derived, shall be considered. In determining compliance for a city board of education, tax revenues provided to the city board of education by the county and the city, from whatever tax source derived, shall be considered.

b. In the expenditure of all funds available for the foundation program as herein defined, the local board of education shall as nearly as practicable provide the same length of term in all schools.

c. The local board of education shall provide a school term of at least 175 days, or such part of that school term as can be

maintained by using funds available and as defined by regulations of the state board of education; and provided further, that in case the local board of education fails to operate any schools the minimum 175-day term, or the minimum term as defined by the state board of education, the foundation program allowances of the local board of education shall be computed only for the actual period the schools are in session that school year.

d. The local board of education shall expend funds for teachers' salaries in accordance with a salary schedule adopted by the local board of education and approved by the state superintendent of education; provided, that such salary schedule shall be at least ninety-five percent (95%) of those salary amounts specified in the state salary matrix by cell.

The local board of education shall allocate state and local foundation program funds to each school in an equitable manner, based on the needs of the students and the schools, as reflected in the current year's actual student populations, including at risk students, students receiving special education services, and students enrolled in vocational/technical educational programs. The local board of education shall report annually to the state board of education on how all state and local funds for public education, including foundation program funds and capital outlay funds, have been allocated to each of its schools or area vocational centers.

e. The local board of education shall submit to the state superintendent of education, under the regulations of the state board of education, the following:

1. A proposed building program which sets out in detail the location of all present and proposed buildings; which indicates proposed educational centers and grades to be taught at these centers and which provides schools for all children of the local board of education.

2. Except for those city boards of education not maintaining a transportation system, a proposed transportation program showing the proposed routing of buses and the condition of all roads to be used for transportation.

3. A proposed professional development program which sets out in detail the professional development needs of employees of the local board of education.

4. A proposed technology program which sets out in detail the proposed expenditures of technology funds.

5. A proposed program for the provision of services to students with disabilities and gifted students in compliance with applicable state and federal laws.

6. A proposed program for the provision of vocational educational services in compliance with applicable state and federal laws.

7. A proposed program for the provision of educational services to at-risk students in compliance with applicable state and federal laws. The proposed program for at-risk students shall include the provision that all funds allocated shall be spent for at-risk students.

f. The local board of education shall meet such other standards as may be set up by the state board of education to promote improved educational opportunity and provide better schools.

(2) DETERMINING COST OF FOUNDATION PROGRAM. — In determining the cost of the foundation program, the Legislature based on the recommendation of the state board of education shall proceed to find the following allowable costs for each local board of education: teachers' salaries, fringe benefits, classroom instructional support, and other current expense. The rate per employee set by the Legislature for teachers' retirement and employees health insurance shall be in effect for the entire fiscal year and shall not be increased by the Teachers' Retirement System or the Public Education Employees Health Insurance Board, except by further action of the Legislature.

a. The foundation program allowance for salaries of teachers shall be determined as follows: The number of teacher units allowed in Section 3 of this Act for each local board of education shall be multiplied by the amount or amounts per teacher unit, which amounts shall be based on the average salaries for each major classification required by the operation of the salary matrix established by the Legislature in the Education Trust Fund appropriation bill and adopted by the state board of education. In recommending to the Governor and the Legislature the salary matrix the state board of education shall give due consideration to degree level, certification, and public education experience. Any teacher, including but not limited to a vocational education teacher, currently under contract in excess of 180 days shall not have the term or salary of said contract reduced as a result of this Act.

b. The foundation program allowance for fringe benefits shall be determined by multiplying a uniform percentage times the amount of teachers' salaries allowed in subsection a. above or by multiplying a fixed rate depending on the type of fringe benefit. The fringe benefits allowances shall include amounts for the employer's contribution for teachers' retirement, health insurance, social security, medicare, unemployment compensation, personal leave, and sick leave. The fringe benefits allowance may include allowances for other fringe benefits as may be approved by the

state Legislature. The state Legislature shall seek the input and advice of appropriate agencies and individuals in setting allowances. The Teachers' Retirement System and the Public Education Employees Health Insurance Board shall recommend to the Legislature on or before the first legislative day of each Regular Session of the Legislature the rate for the following fiscal year. The Legislature shall set the rate in the annual appropriation bill.

c. The foundation program allowance for classroom instructional support shall be determined by multiplying a uniform amount times the number of teacher units allowed in Section 3 of this act. The uniform amount shall include allowances for library enhancement, classroom materials and supplies, professional development, and technology. The library enhancement appropriation shall be for K-12 Public School Library/Media Centers and is an absolute appropriation. Other expenditures may include book binding, repair, CD Roms, computer software, computer equipment, cataloging, audio-visual materials, newspapers, magazines, recordings, and video tapes. The uniform amount may include allowances for other classroom instructional support as may be approved by the state board of education. The foundation program allowance for classroom instructional support shall also include an allowance for textbooks which shall be determined on a per pupil basis. The number of pupils shall be determined by the number of pupils in average daily membership during the first forty scholastic days of the preceding school year. The state board of education shall recommend to the governor the amount for each cost factor included in classroom instructional support on or before December 1 of the current fiscal year for the ensuing fiscal year.

d. The foundation program allowance for other current expense shall be determined by multiplying a uniform amount by the number of earned units. The uniform amount shall be recommended by the state board of education to the Governor on or before December 1 of the current fiscal year for the ensuing fiscal year.

e. The state board of education may cause, from time to time, a study of allowances for teachers' salaries, fringe benefits, classroom instructional support and other current expense of local boards of education to be conducted and, based on the results of the study, may propose any necessary changes to the governor and legislature.

f. The total cost of the foundation program for any local board of education shall be the total allowed for teachers' salaries, for fringe benefits, for classroom instructional support and for other

current expense. The allowances herein to the local boards of education shall be expended subject to all applicable laws, rules and regulations, however, the total funds calculated in the total cost of the foundation program for teachers' salaries shall be expended for salaries within the instructional program.

(3) DETERMINING FUNDS AVAILABLE TO PROVIDE FOUNDATION PROGRAM. —

a. The funds available to meet the cost of the foundation program shall be appropriated by the legislature taking into consideration an amount of local effort required on the part of each local board of education. The required local effort charged against each local board of education for its share of the cost of the foundation program shall be as follows:

1. For the 1995-96 fiscal year, the equivalent of five mills of local school tax district ad valorem tax as reported pursuant to subsection (b)(1)a. of this Section.

2. For the 1996-97 fiscal year, the equivalent of seven and one-half mills of local school tax district ad valorem tax as reported pursuant to subsection (b)(1)a. of this section.

3. For the 1997-98 fiscal year, the equivalent of ten mills of local school tax district ad valorem tax as reported pursuant to subsection (b)(1)a. of this section.

4. For each fiscal year thereafter, the equivalent of ten mills of local school tax district ad valorem tax as reported pursuant to subsection (b)(1)a. of this Section.

b. After calculating the total cost of the foundation program for each local board of education, the state allocation from the Education Trust Fund is calculated by subtracting the local effort required by this section from said total cost. Although the cost of the foundation program is calculated for each school, the one sum allocation for each local board of education shall flow monthly to the local board of education. The state funds for the foundation program shall be allotted by the state board of education consistent with state board of education rules and regulations.

Section 3. (a) In determining the number of teacher units for the purpose of apportioning the state foundation program, one teacher unit or fraction thereof shall be allowed for the specified number of pupils in average daily membership as provided for in subsection (b) of this section, during the first forty scholastic days of the preceding school year in the public schools. Average daily membership is defined as the average number of students enrolled

on a daily basis. Each school shall earn instructional support units based on the accreditation standards of the Commissions which comprise the Southern Association of Colleges and Schools or as otherwise required by an accreditation system adopted by the state board of education. Instructional support units shall be earned for principals, assistant principals, counselors, and librarians, and shall be added to a school's teacher units to determine total units earned for each school. An instructional support unit earned for a principal shall be increased by .22 for elementary schools and .33 for unit schools, secondary schools, and area vocational centers. Each area vocational center shall earn only one instructional support unit which shall be a principal (director) and shall continue to earn a counselor should it have received a counselor unit in 1994-95. Those local boards of education which show an increase in average daily membership during the first forty scholastic days of the current year may be allowed one additional teacher unit or fraction thereof for each specified number of pupils in subsection (b) of this section in such increase in average daily membership for such current year.

(b) The grade level divisors for each fiscal year shall be weighted for each grade to provide funding for special education and vocational education. For the 1995-96 school year the grade level divisors include for special education 5% full time equivalent across all grades weighted 2.5 times the regular student weight. For the 1995-96 school year the grade level divisors include for vocational/technical education 7.4% full time equivalent in grades 7-8 weighted 1.4 times the regular student weight, and 16.5% full time equivalent in grades 9-12 weighted 2.0 times the regular student weight. Said weights for special education and vocational education shall be recommended to the governor annually by the state board of education. For the 1995-1996 school year, one teacher unit shall be allowed for each 16 pupils in average daily membership in kindergarten through third grade; one teacher unit shall be allowed for each 24 pupils in average daily membership in grade four through grade six; one teacher unit shall be allowed for each 23 pupils in average daily membership in grade seven through grade eight; and one teacher unit shall be allowed for each 20 pupils in average daily membership in grade nine through grade twelve. Beginning in the 1996-97 school year, the teacher unit divisors shall be recommended to the governor annually by the state board of education, but shall not be higher than the divisors established for the 1995-1996 school year.

(c) It is the intent of the legislature that local boards of education experiencing increases in average daily membership receive payment for additional current teacher units earned pursuant to

subsection (a) as early in the school year as possible. The state superintendent of education shall certify to the state budget officer the amount for additional current teacher units earned and/or other current expense increase required by subsection (j) herein and shall adjust the local board of education's regular allocation of state funds, and make requisition on the state comptroller accordingly, within thirty days of receipt of the first forty scholastic days membership report.

(d) Current units shall be calculated by comparing the first forty scholastic days of average daily membership of a current year with that of the prior year. This comparison shall be grade by grade with the prior year first forty scholastic days average daily membership subtracted from the current year first forty scholastic days average daily membership. The difference shall be divided by the foundation program grade divisor for each grade. The result by grade shall be summed over all grades to yield current teacher units by local board of education. No current teacher units shall be earned if the number of units by local board of education is less than or equal to zero. The total of all current teacher units by local board of education determines the number of state current teacher units for the year.

(e) The allocation of funds for current teacher units shall be determined by multiplying the average allocation per teacher unit in the current year foundation program.

(f) Current teacher unit calculations shall be completed by the state department of education not later than December 1 of the current year and the allocation of current teacher unit funds shall be distributed in accordance with subsection (c) of this Section.

(g) If funds allocated for current teacher units are insufficient to fully fund current teacher units, the allocation for each current teacher unit shall be prorated accordingly based upon funds available for that purpose.

(h) The state department of education shall report to the governor by December 1 of each year the estimated current teacher units for the next budget year.

(i) Current teacher units shall be allocated only when earned.

(j) Current teacher unit funds not earned shall be distributed to all local boards of education as an increase in other current expense.

(k) Local boards of education have the management responsibility to allocate current teacher unit funds where needed.

Section 4. (a) The allowance for transportation for those local boards of education providing same shall be determined as follows for any local board of education: The number of pupils transported on transportation routes approved under regulations of the state board of education shall be multiplied by an amount per pupil which is to be fixed by the state board of education and applied to local boards of education within groups having similar density of population; provided, that studies shall be made from time to time to determine whether the cost allowed per pupil or the cost unit should be changed in any or all local boards of education. In determining the amount to be allotted for transportation, said allotment shall include an allowance for transportation in accordance with the provisions of Section 16-39-11; however, no allowance shall be made for transporting pupils who live less than two miles from the school they are attending unless such pupils can be shown to be disabled and require transportation. Upon a petition to the state superintendent of education by the local board of education, the two mile limit may be waived by the state superintendent of education to protect the safety of the children. The total amount allotted any local board of education for transportation shall not exceed a figure determined by the state board of education in terms of the ratio between pupils transported to school and the total number of pupils attending school in the jurisdiction of such local board of education or some similar ratio established by the state board of education. Any local board of education which qualifies for a transportation allowance must provide buses which meet minimum standards established by the state board of education and must take such other steps to protect the safety of the children as are required under regulations of the state board of education.

(b) The allowance for transportation provided in (a) above shall include funding for depreciation based on a depreciation schedule established by the state board of education. The depreciation funding included in the transportation allowance shall be set aside in a restricted fund by the local boards of education for fleet renewal only and shall not be used for operating costs. These transportation cost allowance depreciation funds shall not revert to the Education Trust Fund but shall be carried forward from fiscal year to fiscal year to renew the transportation fleet of the local boards of education.

Section 5. (a) In making apportionment of the public school fund held by the state, to the local boards of education, the state superintendent of education shall first set apart and distribute to the schools of each township the amount due from the state thereto as interest on its sixteenth section fund, or other trust fund held by the state.

(b) It is the intent of the legislature to insure that no local board of education receive less state funds per pupil than it received in fiscal year 1994-95. For this reason the foundation program for each local board of education shall be supplemented, if necessary, by a hold harmless allowance. The base amount of each local board's hold harmless allowance calculation is the 1994-95 program cost as defined herein. The 1994-95 program cost of each local board of education was determined by using the first forty scholastic days of average daily membership from 1993-94. Beginning with the fiscal year 1995-96, the hold harmless allowance calculation shall be the current year foundation program state allocation, including allocated public education employees' health insurance plan reserves, less the fiscal year 1994-95 program cost as defined herein. The fiscal year 1994-95 program cost is defined as including the local boards of education allocations for kindergarten through grade twelve plus fringe benefits including public education employees' health insurance plan reserves and the public school fund less the transportation allowance.

(c) Beginning with the fiscal year 1995-96, the first cost to the public school fund, after complying with the provisions of subsection (a) of this Section, shall be the hold harmless allowance. The hold harmless calculation shall continue until no local board of education receives less funds per pupil than it received in fiscal year 1994-95. However, this hold harmless allowance shall terminate not later than one fiscal year beyond the phase in of ten mills equivalent of local effort pursuant to Section 2 of this Act.

(d) It is the intent of the legislature that funds shall be provided to local boards of education in addition to foundation program funds to provide continuing funding to provide for soundness and adequacy of public school facilities in Alabama. To that end the remainder of the public school fund after deducting the costs pursuant to subsections (a) and (c) of this Section shall be available to the local boards of education for capital outlay projects, including the planning, construction, reconstruction, enlargement, improvement, repair or renovation of public school facilities, for the purchase of land for public school facilities and for the acquisition and/or purchase of education technology and equipment.

(e) It is the intent of the Legislature that the distribution of capital funds for the purpose of capital purchases from the Public School Fund be made to all school systems, require a variable matching with local funds based on yield per mill per average daily membership of district property tax, and guarantee the same amount per student in each system for capital purchases from the total of state and matching local funds. The State Superintendent

of Education shall allocate the available funds pursuant to the rules adopted by the State Board of Education. Also, to receive funds from this appropriation, the local board of education must develop a comprehensive, long range capital plan addressing the facility, educational technology and equipment needs of the local board of education, pursuant to the rules adopted by the state board of education. The goal of this program is to have each local board of education complete its comprehensive, long range capital plan and begin making satisfactory progress in implementing the plan for providing adequate public school facilities for all students.

(f) In addition to rules adopted by the State Board of Education and used by the State Superintendent of Education in the distribution of said funds, it is the intent of the Legislature to impose the following. For fiscal year 1996 a school system may elect to use up to 100 percent of its matched capital purchase funds for serving at risk students as defined by the State Board of Education or a legislative approved definition. For fiscal year 1997 a school system may elect to use up to 75 percent, in fiscal year 1998 up to 50 percent, and in fiscal year 1999 up to 25 percent. It is the intent of the Legislature that beginning in fiscal year 2000, all Public School Funds must be used for capital purchases as specified in Section 5, paragraph (e) above. School systems electing to expend their allocations of capital purchase funds on at risk student programs pursuant to this subsection shall expend those funds for effective programs and tutorial assistance programs that include but shall not be limited to after school, Saturday, and/or summer school; provided, that such programs shall be outside of the normal day school.

Section 6. (a) All local boards of education are required, in order to receive state funds, to furnish all such information and to file such records and reports as may be required by the state board of education.

(b) The state superintendent of education shall provide to the Legislative Fiscal Office and the Department of Finance any and all data necessary to enable those departments to calculate the cost of the foundation program and other funding provisions of this Act.

(c) The state superintendent of education and the state board of education are hereby authorized and required to promulgate such reasonable rules and regulations as may be necessary to implement the provisions of this Act.

Section 7. Funds provided by the state to local boards of education for vocational/technical education shall be spent only for its intended purposes.

Section 8. It is not the intent of the legislature to require, and the legislature expressly so declares that it does not require, any county to provide funding to any city board of education beyond the city board of education's pro rata share of any county-wide tax.

Section 9. Should any county or city governing body fail to provide an amount of local tax support for its respective local board of education in an amount equivalent to the mills of ad valorem tax as required by law, the foundation program fund allocation for the local board of education, as the case may be, shall be reduced by an amount equal to the difference between the amount of tax support actually provided and the amount of tax support required by law.

Section 10. Section 16-1-18, Code of Alabama 1975, is hereby amended to read as follows:

"§16-1-18.

"The local boards of education and the board of the Alabama Institute for Deaf and Blind shall provide for the payment of school bus drivers and all full-time support personnel who are noncertificated educational employees for absences resulting from sickness, accidents, or some other unavoidable cause which prevents the employee from discharging his or her duties; provided, that any employee not utilizing or being paid for the sick leave in any one year may accumulate days at the rate of one day per month for the months employed and carry over the unutilized days to the next consecutive year or years of employment for the same local board of education or institution or for any other local board of education or institution in which the employee may later be employed until he or she shall accumulate the maximum number of days as provided in subsection (b) of Section 16-1-18.1. The reasons for granting sick leave shall be the same as those for teachers.

Section 11. Section 16-4-5, Code of Alabama 1975, is hereby amended to read as follows:

"§16-4-5.

"The state superintendent of education shall make the annual apportionment of school funds to the local boards of education of the state as provided in this title."

Section 12. Section 16-8-26, Code of Alabama 1975, is hereby amended to read as follows:

"§16-8-26.

"Any local board of education shall be authorized to grant to any teacher within its school system personal leave of up to five

days annually noncumulative, during the time schools are in session. The board shall enact policies providing for uniform administration of personal leave, and shall determine whether the leave is to be with part pay, full pay or without pay, except that any approved leave for which the state foundation program fund includes funding shall be with pay. It is further provided that personal leave shall be reimbursed to the teacher at the end of the school year at the same daily rate as is paid to substitute teachers for each day of personal leave not taken by a teacher. The number of unused personal leave days subject to reimbursement shall be limited to the number of personal leave days for which funding is provided in the annual foundation program fund. No teacher, as a condition to receive personal leave, shall be required to divulge his/her reasons for requesting such leave."

Section 13. Section 16-8-26.1, Code of Alabama 1975, is hereby amended to read as follows:

"§16-8-26.1.

"(a) When used in this section, the following terms shall have the following meanings, respectively:

"(1) SUPPORT PERSONNEL OR EMPLOYEE. Maid, custodian, adult bus driver, lunchroom or cafeteria worker, secretary, clerk, clerical assistant, maintenance worker, or other non-certificated employee who works an average of 20 hours weekly and who is not otherwise covered by the state merit system or teacher tenure law.

"(2) EDUCATIONAL AUTHORITY. All public local boards of education, the Alabama Institute for Deaf and Blind, all public two-year educational institutions, the Alabama School of Fine Arts, and the Alabama High School of Mathematics and Science.

"(b) Each educational authority shall grant not less than two days of personal leave with pay to its support personnel during the time schools are in session. Additional days may be granted by the educational authority at its discretion. No employee, as a condition to receive personal leave, shall be required to divulge his/her reasons for requesting such leave. The board of control of the educational authority shall enact policies providing for uniform administration of personal leave.

"(c) Funding for not less than two days of personal leave shall come from appropriations made through the appropriations act to the foundation program in the Education Trust Fund. Funding for additional personal leave days shall be at the expense of the educational authority."

Section 14. Section 16-13-7, Code of Alabama 1975, is hereby amended to read as follows:

"§16-13-7.

"In addition to all other funds appropriated for the public schools of the state there is hereby appropriated to the foundation program fund for each fiscal year any and all funds which may be made available to the state of Alabama by the federal government or any instrumentality thereof for financing a foundation education program or for the support and maintenance of public schools; provided that any federal funds made available for vocational education shall be and are hereby appropriated to the state board of education for vocational education."

Section 15. Section 16-13-10, Code of Alabama 1975, is hereby amended to read as follows:

"§16-13-10.

"The custodian of school funds of each local board of education shall pay promptly upon receipt all payrolls filed by the local board of education superintendent of education and which are certified by the local board of education superintendent to be correct, due and unpaid and which are approved by the chairman of the local board of education."

Section 16. Section 16-13-11, Code of Alabama 1975, is hereby amended to read as follows:

"§16-13-11.

"The custodian of school funds of each local board of education shall keep proper vouchers for all moneys paid out and shall make such reports as may be called for by the state and local boards of education."

Section 17. Section 16-13-12, Code of Alabama 1975, is hereby amended to read as follows:

"§16-13-12.

"The custodian of school funds of each local board of education may be removed by the local board of education when, in the opinion of the said local board, the best interests of the public schools may require."

Section 18. Section 16-13-13, Code of Alabama 1975, is hereby amended to read as follows:

"§16-13-13.

"It is the intent of the legislature that no fees shall be collected in the future in courses required for graduation. In courses not required for graduation, local school boards may set reasonable fees for courses requiring laboratory and shop materials and equipment, provided, however, that such fees shall be waived for students who cannot afford to pay the fee. Any funds collected in fees shall be spent on the course for which the fee was levied. This section shall not be construed to prohibit community groups or clubs from fundraising activities, provided, however, that students shall not be required to participate in such fundraising activities."

Section 19. Section 16-13-31, Code of Alabama 1975, is hereby amended to read as follows:

"§16-13-31.

"(a) The tax collector/revenue commissioner of each county must keep a record of all receipts and disbursements of school funds of his/her county to the local boards of education of the county.

"(b) The tax collector/revenue commissioner of each county shall apportion county-wide taxes collected for the purposes of participating in the foundation program to each local board of education in the county on the basis of the total calculated costs of the foundation program for those local boards of education within the county. The total calculated costs of the foundation program for each local board of education shall be the sum of state funds received from the foundation program and the amount of local effort required pursuant to Section 2 (3)a of this Act.

"(c) The apportionment of county-wide taxes collected for the purposes of participating in the foundation program as determined in Section 16-13-31(b) shall be used unless the local boards of education in a county sign a mutual agreement and secure the approval of the state superintendent of education to use some other plan involving desirable special adjustments."

Section 20. Section 16-13-32, Code of Alabama 1975, is hereby amended to read as follows:

"§16-13-32.

"All funds contributed by persons or otherwise to any school or school district shall be applied as indicated in the grant from such contributors."

Section 21. Section 16-13-36, Code of Alabama 1975, is hereby amended to read as follows:

"§16-13-36.

"Any appropriate local governing body is authorized at any meeting of said governing body in any calendar year to appropriate any funds it may deem proper and expedient out of the general funds of the governing body's treasury to local boards of education for the construction, repair, operation, maintenance and support of new or existing public schools within the jurisdiction of said governing body."

Section 22. Section 16-13-37, Code of Alabama 1975, is hereby amended to read as follows:

"§16-13-37.

"(a) When approved at a referendum election held for such purposes in the manner hereinafter prescribed, any local board of education may divert any earmarked revenue derived by it from county sales and use taxes heretofore levied and imposed by local laws enacted by the legislature of Alabama which exclusively earmarked such county sales and use taxes for capital outlay, construction and maintenance of public schools and use or spend the same for general educational purposes, including payment of teachers' salaries, other current school expenses, and costs of school transportation, the provisions of any general, special or local law to the contrary notwithstanding.

"(b) Upon the written request of the local board of education to the county commission, the referendum elections referred to in subsection (a) of this section may be called, held and conducted as nearly as may be in accordance with state law. In counties which apportion such sales and use taxes between county boards of education and city boards of education under local laws or by agreement between said county and city boards of education, upon the joint written request of such county and city boards of education to the county commission, such referendum elections may be consolidated into one countywide vote, and the result of such consolidated election shall govern the permissive use of such earmarked revenue thereafter by both the county and city boards of education.

"(c) This section shall not be construed so as to permit or allow the diversion or use for general educational purposes of any earmarked or dedicated school revenue derived by any local board of education from county sales and use taxes which have heretofore been pledged by such local board of education or other governing body to the amortization, payment or retirement of any school bond issue, school loan or school contract of any kind which calls or provides for the payment thereof from said earmarked school revenues."

Section 23. Section 16-13-73, Code of Alabama 1975, is hereby amended to read as follows:

"§16-13-73.

"Before issuing any warrants hereunder, the board of education by which such warrants are proposed to be issued shall cause an application for approval of such issue to be filed with the state superintendent of education. Such application shall be in such form and shall contain such information as the state superintendent of education may prescribe, and he may require such further information as may be necessary relating to the proposed warrants or other financial or educational matters under the control of such board of education. He shall not approve the issue of any warrants hereunder which would jeopardize the state's foundation program of education as prescribed by law and in accordance with the rules and regulations of the state board of education. He shall not approve the issue of any warrants hereunder when the principal of or the interest on any other warrants constituting a preferred claim against the tax proceeds to be pledged for payment of the proposed warrants is overdue and unpaid, except warrants to refund the same. The written approval of the state superintendent of education of the amount and general purpose of the warrants shall be a sufficient approval of the issue, but he may at his discretion approve any of the terms and provisions of the warrants which in such event shall not be issued otherwise. He shall not approve the issuance of any refunding warrants unless evidence presented to him in his judgment shows:

(1) That an interest saving will thereby be effected without extending the date of payment of the warrants desired to be refunded;

(2) That payment of warrants desired to be refunded will prevent the issuing board of education from operating schools the customary term in their jurisdiction;

(3) That an extension of the time of payment of the warrants desired to be refunded is necessary to prevent the state's foundation program from being jeopardized; or

(4) That the proceeds of the tax pledged for payment of the warrants to be refunded are not or will not be sufficient for the payment of the principal of and the interest on such warrants.

The state superintendent's approval of the issue of any warrants hereunder shall be a conclusive determination that all necessary evidence has been presented to him. The written approval of the state superintendent of education of the issue of any warrants hereunder shall be a conclusive determination in favor of the validity of such warrants that all of the requirements of this article have been complied with. The state superintendent of

education may also determine conclusively for all purposes relating to the validity of any warrants issued hereunder whether any other warrants constitute a preferred claim against the tax proceeds out of which the proposed warrants are payable. In all matters connected with his approval of warrants, the state superintendent of education shall comply with any regulations or instructions of the state board of education, but his failure to do so shall not affect the validity of warrants approved by him."

Section 24. Section 16-13-76, Code of Alabama 1975, is hereby amended to read as follows:

"§16-13-76.

"Nothing herein contained shall be construed to authorize any local board of education to pledge, for the benefit of any warrants issued hereunder, any portion of the foundation program fund moneys paid, apportioned or allocated to it under the provisions of this chapter, nor any portion of public school fund moneys paid, apportioned or allocated to it under the provisions of this article."

Section 25. Section 16-13-91, Code of Alabama 1975, is hereby amended to read as follows:

"§16-13-91.

"Before issuing any warrants hereunder the county board of education or the city board of education, as the case may be, shall cause an application for approval of such issue to be filed with the state superintendent of education. Such application shall be in such form and shall contain such information as the state superintendent of education may prescribe, and he may require such further information as may be necessary relating to the proposed warrants or other financial or educational matters under the control of such board of education. He shall not approve the issue of any warrants which would jeopardize the state's foundation program of education as prescribed by law and in accordance with the rules and regulations of the state board of education. He shall not approve the issue of any warrants hereunder when the principal or interest of any other warrants constituting a preferred claim against the same tax is overdue and unpaid, except warrants to refund the same. The written approval of the state superintendent of education of the amount and general purpose of the warrants shall be a sufficient approval of the issue, but he may at his discretion approve any of the terms and provisions of the warrants which in such event shall not be issued otherwise. He shall not approve the issuance of any refunding warrants unless evidence presented to him in his judgment shows:

(1) That an interest saving will thereby be affected without extending the date of payment of the warrants desired to be refunded; or

(2) That payment of warrants desired to be refunded will prevent the issuing board of education from operating schools the customary term in their jurisdiction; or

(3) That an extension of the time of payment of the warrants desired to be refunded is necessary to prevent the state's foundation program from being jeopardized; or

(4) That the proceeds of the tax pledged for payment of the warrants to be refunded are not or will not be sufficient for the payment of the principal of and the interest on such warrants.

The state superintendent's approval of the issue of any warrants hereunder shall be a conclusive determination that all necessary evidence has been presented to him. The written approval of the state superintendent of education of the issue of any warrants hereunder shall be a conclusive determination in favor of the validity of such warrants that all of the requirements of section 16-13-120 and this section have been complied with. The state superintendent of education may also determine conclusively for all purposes relating to the validity of any warrants issued hereunder whether any other warrants constitute a preferred claim against the same tax proceeds. In all matters connected with his approval of warrants the state superintendent of education shall comply with any regulations or instructions of the state board of education, but his failure to do so shall not affect the validity of warrants approved by him."

Section 26. Section 16-13-121, Code of Alabama 1975, is hereby amended to read as follows:

"~~§16-13-121.~~

"Before issuing any warrants under section 16-13-120, the county board of education or the city board of education, as the case may be, shall cause an application for approval of such issue to be filed with the state superintendent of education. Such application shall be in such form and shall contain such information as the state superintendent of education may prescribe, and he may require such further information as may be necessary relating to the proposed warrants or other financial or educational matters under the control of such board of education. He shall not approve the issue of any warrants which would jeopardize the state's foundation program of education as prescribed by law and in accordance with the rules and regulations of the state board of education. He shall not approve the issue of any warrants hereunder when the principal or interest of any other warrants constituting a

preferred claim against the same tax proceeds is overdue and unpaid, except warrants to refund the same. The written approval of the state superintendent of education of the amount and general purpose of the warrants shall be a sufficient approval of the issue, but he may at his discretion approve any of the terms and provisions of the warrants which in such event shall not be issued otherwise. He shall not approve the issuance of any refunding warrants unless evidence presented to him in his judgment shows:

(1) That an interest saving will thereby be affected without extending the date of payment of the warrants desired to be refunded; or

(2) That payment of warrants desired to be refunded will prevent the issuing board of education from operating schools the customary term in their jurisdiction; or

(3) That an extension of the time of payment of the warrants desired to be refunded is necessary to prevent the state's foundation program from being jeopardized; or

(4) That the proceeds of the tax pledged for payment of the warrants to be refunded are not or will not be sufficient for the payment of the principal of and the interest on such warrants.

The state superintendent's approval of the issue of any warrants hereunder shall be a conclusive determination that all necessary evidence has been presented to him. The written approval of the state superintendent of education of the issue of any warrants hereunder shall be a conclusive determination in favor of the validity of such warrants that all of the requirements of this article have been complied with. The state superintendent of education may also determine conclusively for all purposes relating to the validity of any warrants issued hereunder whether any other warrants constitute a preferred claim against the same tax. In all matters connected with his approval of warrants the state superintendent of education shall comply with any regulations or instructions of the state board of education, but his failure to do so shall not affect the validity of warrants approved by him."

Section 27. Section 16-13-144, Code of Alabama 1975, is hereby amended to read as follows:

"§16-13-144.

"(a) No local board of education shall spend or obligate itself to spend more money in any fiscal year than the estimate of income available to that board of education for that year, plus balances on hand at the beginning of said fiscal year, which estimate must be approved by the state superintendent of education, if such excess

expenditure or excess obligation to spend results in a deficit for that fiscal year, except as provided in section 16-13-145. The estimate of income shall include estimates of income from revenue receipts from all sources and estimates of nonrevenue receipts from all sources, but excluding all funds derived from loans other than loans obtained by the issuance of school warrants authorized by the laws of the state. Provided, however, this section shall not apply to any fiscal year where there is proration of education funds going to local boards of education. No funds shall be transferred by any board of education from salary allocations to any other expenditure or for any other purpose. In times of proration, salaries shall not be subject to proration.

"(b) If a local board of education in any fiscal year violates the provisions of this section, the state board of education shall reduce in the succeeding fiscal year the allotment from the foundation program fund to which such local board of education is otherwise entitled an amount equal to one fourth of said deficit.

"(c) If any local superintendent at any time makes a financial statement to his or her local board of education or to the state superintendent of education in which said superintendent purposely misrepresents the amount of the deficit or obligations outstanding of his or her local board of education, he or she shall be guilty of a misdemeanor and punishable by a fine of not less than $100.00 and not more than $500.00."

Section 28. Section 16-13-145, Code of Alabama 1975, is hereby amended to read as follows:

"16-13-145.

"(a) Any local board of education shall have authority during any fiscal year upon the recommendation of the local superintendent of education, as the case may be, to borrow money in anticipation of the current revenues for that fiscal year and to pledge the current revenues for said fiscal year for the payment of such loan or loans if funds on hand are not sufficient to pay the salaries of teachers and to meet the current expenses when due; provided, that the party or parties making such loan or loans to a local board of education shall not be put upon inquiry as to the validity of such indebtedness because of this provision. The total amount of such loans a local board of education may have outstanding at any time during the fiscal year shall be determined as follows: From the total estimate of current revenue of that local board of education for that fiscal year, which estimate is approved by the state superintendent of education, deduct the sum of the current revenue already received for that fiscal year and the principal and interest due on school warrants during that fiscal year and unpaid at that time and

the difference shall be the maximum amount of current loans said local board of education can have outstanding in anticipation of current revenue at any given time. All such current loans shall be due and payable not later than the close of the fiscal year for which the current revenue is pledged provided that if the state of Alabama makes the final apportionment of school funds for a fiscal year after the close of that fiscal year, such loans may be extended at the close of the fiscal year until such time as the state makes its final apportionment. If for any reason at the close of a fiscal year a local board of education does not have on hand sufficient funds to retire all current loans, the party or parties making such loans to the local board of education shall not be put upon inquiry as to the validity of such loan or loans due to any provision of this article and any such loans unpaid at the close of any fiscal year shall become a first lien on the current revenue of the succeeding fiscal year subject only to the prior lien of principal and interest due on school warrants if such warrants are outstanding. At no time shall loans be secured to meet the current expenses in any year which shall pledge the school revenues of any other fiscal year; provided, that expenditures for teachers' salaries for services rendered and for transportation for the scholastic year, July 1 to June 30, inclusive, for any year, and expenditures for fuel and school classroom materials and supplies to be consumed in the scholastic year, July 1 to June 30, inclusive, for any year, shall be paid from cash on hand and if for any reason the local boards of education do not have on hand sufficient funds to pay such expenditures then the local boards of education shall have authority upon the recommendation of the local superintendent of education, as the case may be, to borrow money to pay for such expenditures and to pledge therefor the school revenue for the ensuing fiscal year; provided, that such loan must be repaid during that fiscal year for which the school revenue is pledged.

"(b) Notwithstanding the provisions of subsection (a) of this section, section 16-13-144, or any other provision of law, any local board of education upon the recommendation of the local superintendent of education shall have authority to contract with the Tennessee Valley Authority for the purpose of obtaining funds from the Tennessee Valley Authority's Commercial and Industrial Energy Conservation Financing Plan or any similar plan developed by the Tennessee Valley Authority, in accordance with the terms and conditions established for such programs by the Tennessee Valley Authority, to assist said local board of education in modifying any school buildings as may be determined to be energy-inefficient in order to improve the energy efficiency of such buildings. No contract authorized by this subsection shall be effective until approved by the state superintendent of education."

Section 29. Section 16-35-2, Code of Alabama 1975, is hereby amended to read as follows:

"§16-35-2.

"Before transacting any business, each member of the committee on courses of study and its secretary shall take an oath before someone authorized to administer oaths to discharge faithfully the duties imposed upon him or her as a member or as secretary of said committee on courses of study, and that he or she has no interest as an author, an associate author, a publisher, a representative of authors or publishers, and that he or she is in no way connected with the distribution of books, or pecuniary interested directly or indirectly in the business or profits of any person, firm or corporation anywhere engaged in manufacturing, publishing or selling school books.

"Members of the committee on courses of study shall be paid a per diem at the rate provided by state law during the time they are in session; provided, that the committee shall not remain in session at any one time for a longer period than 30 days and in addition shall receive travel expenses at the rate provided by state law for mileage from their homes to the place of meeting and return, the per diem and mileage to be paid from the appropriations made to the state department of education."

Section 30. Section 16-36-3, Code of Alabama 1975, is hereby amended to read as follows:

"§16-36-3.

"The organizational meeting of each state textbook committee shall be called by the state superintendent of education and shall be held within two weeks following the date of appointment of the state textbook committee members, and the committee shall meet thereafter on call of the chairman of the committee or of the state superintendent of education.

"At the organizational meeting the state textbook committee shall elect one of its members to act as chairman of the committee and one of its members as secretary of the committee. Other necessary meetings shall be held as determined by the state textbook committee or upon the call of its chairman or the state superintendent of education. The state superintendent of education shall notify the members of the committee of each meeting by registered or certified mail prior to the time of such meeting. The members of the state textbook committee shall be paid per diem expenses at the rate provided by state law during the time they are engaged in such work and in addition shall receive travel expenses at the rate provided by state law for each mile traveled from home to the

place of meeting and return, to be paid out of appropriations made to the state department of education. Each member of the committee, before receiving per diem for expenses, shall submit to the state superintendent of education a notarized statement of the number of miles traveled and the number of days engaged in such work; provided, that no member shall be paid for more than 25 days in any school year."

Section 31. Section 16-36-5, Code of Alabama 1975, is hereby amended to read as follows:

"§16-36-5.

"Local textbook committees shall meet on call of the chairman of local boards of each school system for the purpose of selecting textbooks from the list of adoptions by the state board of education or, if authorized by law applicable to such local system, to select textbooks from a list submitted to the committee for consideration by the proper local authority. No textbook shall be used in any public school of this state unless selected by a local textbook committee from the list of textbooks adopted by the state board of education or as otherwise provided by law. Publishers shall furnish samples of all state-adopted textbooks to each local board of education for evaluation by the local textbook selection committee. One copy of each textbook adopted by the local textbook committee shall be retained by the local board of education as official samples. All samples not adopted by the local boards shall be returned to the publishers at the expense of the publishers, and samples of those books adopted shall become the property of the local boards of education; however, if the publisher fails to reclaim his samples of nonadopted books within 90 days, the sample books shall become the property of the local board of education. Those local boards of education currently having the right to adopt and use textbooks that are not on the state list of adoptions shall continue to have such right under this article, and the cost and expense of acquiring such textbooks shall be paid from foundation program funds distributed to the local boards of education for this purpose."

Section 32. Section 16-36-6, Code of Alabama 1975, is hereby amended to read as follows:

"§16-36-6.

"The adoption of a textbook by a majority vote of the local committee shall be for a period of six years and may not be changed within such period of time unless such change has been authorized by the state board of education or as otherwise authorized by law.

"Not more than one sixth of the total value of the required textbooks, in all grades, as determined by contract prices in effect

in each successive year multiplied by the number of books required in each grade and subject, of state-owned or local board-owned textbooks may be replaced by new adoptions in any one year by any local board of education.

"The superintendent of education of each local board of education shall not later than 30 days after the date of such adoptions file a report with the state superintendent of education listing the titles, the names of the authors, the publishers and the date of adoption of each textbook."

Section 33. Section 16-36-10, Code of Alabama 1975, is hereby amended to read as follows:

"§16-36-10.

"All adoptions recommended by the state textbook committee and subsequently adopted by the state board of education shall be for a period of six years, and no change shall be permitted within such period unless recommended to the state board of education by the state textbook committee.

"In addition to all other laws which forbid the use of textbooks in the public schools of the state by authors who are members of the communist party or members of communist front organizations, all contracts with publishers for furnishing state-owned or local board-owned textbooks shall stipulate that the author or authors of such book or books is not a member of the communist party or known advocate of communism or Marxist socialism and is not a member of the communist party or of a communist front organization.

"The state board of education shall establish procedures to stabilize the expiration of publishers' contracts for state-adopted books in a manner to effect an orderly review and new adoption of textbooks within the financial limitations imposed by this article."

Section 34. Section 16-36-12, Code of Alabama 1975, is hereby amended to read as follows:

"§16-36-12.

"Each publisher who makes a bid or proposal to furnish school textbooks shall be required to deposit with the treasurer of the state a sum of money such as the state board of education shall require, but not less than $500.00 nor more than $2,500.00, according to the number of books such bidder proposes to supply, which sum shall be forfeited absolutely to the state board of education for the use of the state board of education for purposes

enumerated in this article, if the bidder making the deposit shall fail or refuse to make and execute such contract and required bond. The time within which said contract and bond shall be executed shall be stated in the advertisement inviting bids or proposals. All bids shall be sealed and deposited with the state superintendent of education to be opened at a time designated by the superintendent, provided bidders have been given reasonable notice in advance."

Section 35. Section 16-36-13, Code of Alabama 1975, is hereby amended to read as follows:

"§16-36-13.

"The maximum price at which the state board of education shall contract for local boards of education to pay f.o.b. the local board of education for any books to be used in the public schools of this state, after all discounts have been deducted, shall not exceed the minimum price at which the publisher sells such books in wholesale quantities f.o.b., the publisher's publishing house, after all discounts have been deducted. Any contract made for the purchase of books for use in the public schools of this state at a price higher than such determined maximum shall be void. Every contract entered into under the provisions of this article by the state board of education on behalf of the local boards of education and any publisher or publishing company shall contain a provision that the publisher covenants and agrees that he or she is not furnishing under contract executed after the first day of January of the year in which the contract becomes effective, to any state, county or school district in the United States the textbooks embraced in the contract at a price below the price stipulated therein; that the publisher further covenants and agrees that if at any time during the period of the contract the textbooks therein named shall be contracted for at a price to any state, county or school district in the United States, lower than the price agreed upon in the contract, then that lower price shall become the contract price between the state board of education on behalf of the local boards of education and the publisher named therein; that the publisher further covenants and agrees that if, at any time during the period of the contract, any editions of the textbooks therein named substantially similar to the official copy on file in the office of the state superintendent of education shall be contracted for at a lower price with any state, county or school district in the United States, the state board of education may at its option substitute for the edition therein contracted for the said substantially similar edition at said lower price. If the state board of education shall find that any such book or books so contracted for are being sold at a lower contract price in any other state than the price for which they are being

sold to Alabama, the contract shall be forfeited. Each contract shall provide that in the event of violation of this pricing agreement such contractor shall return all money collected for such books and also forfeit said book or books to the respective local boards of education, this being the agreed measure of damages stipulated to have been suffered by the state board of education and the local boards of education. Action may be brought in the name of the state on the bond of the contractor for all losses sustained, and any sum recovered shall be deposited to the credit of the Education Trust Fund."

Section 36. Section 16-36-15, Code of Alabama 1975, is hereby amended to read as follows:

"§16-36-15.

"Upon receipt of requisitions from the state superintendent of education, the state purchasing agent shall, in accordance with existing statutes and procedures governing state purchases, issue state-wide purchase contracts upon which local boards of education shall issue local purchase orders to the publishers who shall ship such books ordered to the local boards of education, shipping charges prepaid."

Section 37. Section 16-36-16, Code of Alabama 1975, is hereby amended to read as follows:

"§16-36-16.

"A provision shall be incorporated in all contracts with textbook publishers that local boards of education shall be permitted to purchase with local funds textbooks for free distribution at the same price at which the local boards of education are permitted to purchase such books with state funds. Contracts with publishers shall also provide that the publishers shall replace defective or substandard books without cost to the purchaser, and contracts shall also provide for the time of delivery, penalties for delay in delivery and such other provisions as in the judgment of the state board of education will insure prompt delivery of all textbooks at the lowest possible price."

Section 38. Section 16-36-17, Code of Alabama 1975, is hereby amended to read as follows:

"§16-36-17.

"All books contracted for shall be shipped upon purchase orders of the local boards of education. The publisher or publishing company shipping such books shall prepare quadruplicate invoices or bills for the books so shipped. One copy shall be mailed to the state superintendent of education and the other three to the local superintendent of education to whom the books are shipped."

Section 39. Section 16-36-18, Code of Alabama 1975, is hereby amended to read as follows:

"§16-36-18.

"The local superintendent of education, upon receipt of any shipment of books as provided herein, shall forthwith determine if the shipment is in accordance with the invoices or bills and, if in accordance, he or she shall approve and receipt the invoices, one copy of which he or she shall send to the state superintendent of education and one copy to the publisher. Payment shall be made by the local board of education for such purchase and charged against the foundation program funds distributed to the local board of education for such purposes or other funds available to the local board of education for such purposes."

Section 40. Section 16-36-23, Code of Alabama 1975, is hereby amended to read as follows:

"§16-36-23.

"The state department of education in conjunction with the state purchasing agent shall furnish contracts from which state-owned and state-adopted textbooks for the pupils and teachers in classrooms and schools operated under the jurisdiction and supervision of the Alabama department of mental health and mental retardation can be purchased. Such purchases shall be made from appropriations to the state department of mental health and mental retardation. The state board of education may make and enforce regulations for the proper care and accounting for such state-owned textbooks."

Section 41. Section 16-36-24, Code of Alabama 1975, is hereby amended to read as follows:

"§16-36-24.

"The state department of education in conjunction with the state purchasing agent shall furnish contracts from which state-owned and state-adopted textbooks for the pupils and teachers in classrooms and schools operated under the jurisdiction of the Alabama institute for deaf and blind can be purchased. Such purchases shall be made from appropriations to the Alabama institute for deaf and blind. The state board of education may make and enforce regulations for the proper care and accounting for such state-owned textbooks and shall not be required to purchase and furnish special books or materials for the deaf and blind."

Section 42. Section 16-36-25, Code of Alabama 1975, is hereby amended to read as follows:

"§16-36-25.

"The state department of education in conjunction with the state purchasing agent shall furnish contracts from which state-owned and state-adopted textbooks for the pupils and teachers in classrooms and schools operated by the department of youth services can be purchased. The cost of the textbooks provided herein shall be paid from appropriations to the department of youth services. The state board of education may make and enforce regulations for the proper care and accounting for such state-owned textbooks and shall not be required to purchase and furnish any special books or materials under the provisions of this section."

Section 43. Section 16-36-31, Code of Alabama 1975, is hereby amended to read as follows:

"§16-36-31.

"The state superintendent of education shall keep a record of all textbooks delivered to the local superintendents of education under the provisions of this article as shown by the invoices herein provided for, and the state department of examiners of public accounts shall make periodic audits of all accounting books and records pertaining to the textbooks which have been so furnished at state or local expense, requiring a complete accounting for all such textbooks as shown by the records. The local superintendents shall certify to the state superintendent of education that the total inventory of state-owned and local-owned books for each subject does not exceed by five percent the total number of pupils enrolled in the grades and subjects for which the books were purchased. If an audit by the department of examiners of public accounts shows that the inventory does exceed the five percent prescribed herein, the chief examiner shall charge such excess to the local superintendents. Any necessary blanks or forms required to assist in the orderly effectuation of this program shall be prescribed by the chief examiner of public accounts and shall be furnished by the state superintendent of education to each local superintendent, and the expense thereof paid from the funds allotted for the administration of the state department of education."

Section 44. Section 16-36-32, Code of Alabama 1975, is hereby amended to read as follows:

"§16-36-32.

"All textbooks furnished free of charge to pupils shall remain the property of the state or local school system, as the case may be, and when distributed to pupils shall be retained for normal use only during the period they are engaged in a course of study for which the textbooks are selected. At the completion of each course

of study or otherwise at the instructions of the principal or teacher in charge, such textbooks shall be returned as directed. A receipt shall be required from each pupil, parent or guardian upon issuance of any textbook, which receipt shall be retained until the return of such textbook. The parent, guardian, or other person having custody of a child to whom such textbooks are issued shall be held liable for any loss, abuse or damage in excess of that which would result from the normal use of such textbooks. In computing the loss or damage of a textbook which has been in use for a year or more, the basis of computation shall be a variable of 50 to 75 percent of the original cost of the book to the state or local board of education. If such parent, guardian or person having custody of such child to whom the textbook was issued fails to pay such assessed damages within 30 days after notification, such student shall not be entitled to further use of such textbooks until remittance of the amount of loss or damage shall be made. All remittances for damages shall be deposited to the credit of the local textbook fund and may be used or the repair, maintenance and replacement of textbooks. The respective local boards of education may waive the payment as provided herein if in their judgment the respective parent or guardian is not financially able to make such payment; provided, the local system shall contribute from local funds sums equal to the amount so waived."

Section 45. Section 16-36-35, Code of Alabama 1975, is hereby amended to read as follows:

"§16-36-35.

"Pupils enrolled in the public schools or any parent or guardian of any such pupil may buy textbooks at the price paid for them by the state board of education or local board of education plus handling charges, such handling charges not to exceed 15 percent of the publisher's contract price paid by the state or local board of education; and all contracts made with publishers shall so provide. Each local board of education may provide for the sale of such textbooks as may be needed by pupils for whose grades or courses free textbooks are not furnished. Sale of such textbooks may be made by the local board of education in the school system of which such pupil is enrolled, but the local board of education may make such sales through a designated employee or agent thereof. No handling charge allowed thereunder shall inure to any member, officer or employee of any local board of education.

"All books issued by the separate schools and school systems may be used by pupils to whom issued in the same manner and to the same extent as though such books were owned by the pupils, their parents or guardians as the case may be, except that such

pupils, parents or guardians shall be liable for such loss or damage to books as hereinabove provided and for the return thereof."

Section 46. Section 16-36-36, Code of Alabama 1975, is hereby amended to read as follows:

"§16-36-36.

"Neither the state superintendent of education, any member of the state board of education, any local superintendent of education, nor any member of any local board of education shall have an interest, directly or indirectly, in any contract that might be made pursuant to provisions of this article for the purchase of textbooks by the state or local boards of education, nor shall he have any interest as an author, an associate author, a publisher, a representative or agent of an author or of a publisher of any textbook, nor shall he have any pecuniary interest, directly or indirectly, in the business or profits of any person, firm or corporation engaged in manufacturing, publishing or selling of textbooks, nor shall he or she accept any emolument, promise of future reward or consideration of value of any kind from any publisher of textbooks or his or her agent. Each member of the state board of education and each member of all local boards of education shall, before qualifying, take the oath of office required by section 16-36-4 in the case of members of local textbook committees. Any violation of this provision shall be unlawful. Upon conviction of any such violation such person shall be subject to a fine not exceeding $10,000.00 or five years in the state penitentiary or both, and his or her office as a member of the state board of education or member of a local board of education shall be forfeited."

Section 47. Section 16-36-39, Code of Alabama 1975, is hereby amended to read as follows:

"§16-36-39.

"No provision, part or section of this chapter shall be construed or considered to be an appropriation of funds from the state treasury; and the administration of this article shall be subject to appropriations made by the legislature."

Section 48. Section 16-39-10, Code of Alabama 1975, is hereby amended to read as follows:

"§16-39-10

"The local superintendents of education are authorized to purchase and arrange for distribution among schools previously adopted textbooks, equipment and materials which are prepared in various resource and media centers for the use of vision and

hearing impaired children and those having other special learning disabilities enrolled in the public schools in Alabama or whose tuition and expenses at other schools are being paid by a local board of education under the provisions of this article."

Section 49. Section 16-39-11, Code of Alabama 1975, is hereby amended to read as follows:

"§16-39-11.

"When authorized by regulations of the state board of education in lieu of the amount calculated on the basis of average daily membership otherwise authorized by law, there shall be allowed from the Education Trust Fund appropriation for transportation for each bus used exclusively for the purpose of transporting eight or more pupils classified as exceptional children who are unable to ride regular school buses 80 percent of the cost of such transportation, and a proportionate amount shall be allowed for a vehicle used exclusively for the transportation of a smaller number of exceptional children in average daily membership as prescribed by regulations of the state board of education."

Section 50. Section 25-4-150, Code of Alabama 1975, is hereby amended to read as follows:

"§25-4-150.

"Such moneys as are necessary to finance the fringe benefit costs for employees of local boards of education shall be paid by the local board of education from such funds as the salaries of the local boards' of education employees are paid."

Section 51. Section 40-12-4, Code of Alabama 1975, is hereby amended to read as follows:

"§40-12-4.

"(a) In order to provide funds for public school purposes, the governing body of each of the several counties in this state is hereby authorized by ordinance to levy and provide for the assessment and collection of franchise, excise and privilege license taxes with respect to privileges or receipts from privileges exercised in such county, which shall be in addition to any and all other county taxes heretofore or hereafter authorized by law in such county. Such governing body may, in its discretion, submit the question of levying any such tax to a vote of the qualified electors of the county. If such governing body submits the question to the voters, then the governing body shall also provide for holding and canvassing the returns of the election and for giving notice thereof. All the proceeds from any tax levied pursuant to this section less the

cost of collection thereof shall be used exclusively for public school purposes, including specifically and without limitation capital improvements and the payment of debt service on obligations issued therefor.

"(b) Notwithstanding anything to the contrary herein, said governing body shall not levy any tax hereunder measured by gross receipts, except a sales or use tax which parallels, except for the rate of tax, that imposed by the state under this title. Any such sales or use tax on any automotive vehicle, truck trailer, trailer, semitrailer, or travel trailer required to be registered or licensed with the probate judge, where not collected by a licensed Alabama dealer at time of sale, shall be collected and fees paid in accordance with the provisions of sections 40-23-104 and 40-23-107, respectively. No such governing body shall levy any tax upon the privilege of engaging in any business or profession unless such tax is levied uniformly and at the same rate against every person engaged in the pursuit of any business or profession within the county; except, that any tax levied hereunder upon the privilege of engaging in any business or profession may be measured by the number of employees of such business or the number of persons engaged in the pursuit of such profession. In all counties having more than one local board of education, revenues collected under the provisions of this section shall be distributed within such county on the same basis of the total calculated costs for the foundation program for those local boards of education within the county."

Section 52. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 53. Whenever any act, section of the Code of Alabama 1975, or any other provision of law refers to the "minimum program" as it relates to the funding of education, it shall be deemed a reference to the "foundation program."

Section 54. All laws or parts of laws which conflict with this act are repealed and specifically 16-1-1.1, 16-1-15.1, 16-1-29, 16-3-15, 16-3-17.1, 16-3-17.2, 16-3-18.1, 16-3-18.3, 16-3-18.4, 16-3-18.5, 16-3-20.1, 16-3-36, 16-3-38, 16-6A-17, 16-13-3, 16-13-15, 16-13-30, 16-13-34, 16-13-35, 16-13-38, 16-13-39, 16-13-40, 16-13-50, 16-13-51, 16-13-52, 16-13-52.1, 16-13-53, 16-13-54, 16-13-55, 16-13-56, 16-13-57, 16-13-58, 16-13-59, 16-13-60, 16-13-61, 16-13-62, 16-13-63, 16-13-64, 16-13-65, 16-14-1, 16-14-2, 16-14-3, 16-14-4, 16-14-5, 16-14-6, 16-14-7, 16-14-8, 16-14-9, 16-14-10, 16-14-11, 16-14-12, 16-14-13, 16-14-14, 16-14-15, 16-14-16, 16-14-17, 16-14-18, 16-14-

19, 16-23-13.1, 16-23-17, 16-26-4, 16-36-33, 16-39-7 and 21-1-20 of the Code of Alabama 1975 are hereby repealed.

Section 55. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, and shall be implemented with the beginning of the 1995-96 fiscal year.

Approved July 7, 1995

Time: 11:30 A.M.

Act No. 95-315 H. 380 – Rep. Morton

AN ACT

To provide further for the powers of the board and membership fees of credit unions; to provide for the powers of the administrator of the Alabama Credit Union Administration to include the power to act as a conservator of a credit union under certain conditions, subject to quarterly review of the board; to provide for the rules and regulations and written policies and interpretations of law and regulation and to give certain immunity to officers and directors relying on the written policies and interpretation; and to provide further appointments, qualifications, and residency of members of the credit union board; and for these purposes amending Sections 5-17-4, 5-17-8, 5-17-46, and 5-17-55, Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 5-17-4, 5-17-8, 5-17-46, and 5-17-55, Code of Alabama 1975, are amended to read as follows:

"§5-17-4.

"(a) A credit union shall have all of the following powers:

"(1) To receive the savings of its members either as payment on shares or as deposits, including the right to conduct Christmas clubs, vacation clubs and other thrift organizations within the membership.

"(2) To accept deposits of fiduciary funds if a member is the beneficiary, trustee, or personal representative and if the funds are part of the estate of a deceased member.

"(3) To make loans to members.

"(4) To make loans to other credit unions.

"(5) To make loans to a cooperative society or other organizations having membership in the credit union.

"(6) To deposit in state and national banks, savings and loan associations, the accounts which are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation, and of other credit unions.

"(7) To invest in any investment legal for savings banks or for trust funds in the state.

"(8) To borrow money from any source and to give its note therefor; provided, that the borrowing shall not at any time exceed 50 percent of its assets.

"(9) To assess each member a recurring or nonrecurring membership fee.

"(10) To exercise incidental powers as necessary to enable it to carry on effectively the purposes for which it is incorporated and other powers as are expressly authorized by the administrator of the Alabama credit union administration.

"(11) In addition to any and all other powers heretofore granted to credit unions, any credit union shall have the power to engage in any activity in which the credit union could engage were the credit union operating as a federally chartered credit union, including but not by way of limitation because of enumeration, the power to do any act and own, possess, and carry as assets property of that character including stocks, bonds, or other debentures which, at the time, are authorized under federal laws or regulations for transactions by federal credit unions, notwithstanding any restrictions elsewhere contained in the statutes of the state of Alabama. No credit union can exercise any power which it claims only by virtue of the power being possessed by a federal credit union if the administrator issues a written order prohibiting a credit union from exercising that power."

"§5-17-8.

"(a) Credit unions shall report to the administrator of the Alabama credit union administration at least annually on or before January 31 on blanks supplied by the administrator for that purpose. Additional reports may be required. Credit unions shall be examined at least annually by employees of the administrator or by other persons designated by the administrator. For failure to file reports when due, unless excused for cause by the administrator, the credit union shall pay to the treasurer of the state five dollars ($5) for each day of its delinquency.

"(b) If the administrator determines that the credit union is violating the this chapter, or is insolvent, the administrator may suspend operations of the credit union by issuing an order requiring that the credit union cease operations pending a hearing on the revocation of the certificate of approval, or the administrator may set a date for a hearing on the revocation of the certificate of approval without suspending operations of the credit union. If the administrator suspends operations of the credit union, a hearing

on the revocation of the certificate of authority shall be held within 90 days from the date of the order requiring suspension of operations. If demanded by the credit union, the hearing on revocation of the certificate of authority, whether or not the administrator has suspended operations of the credit union pending the hearing, shall be conducted on the record by the administrator who shall also make findings of fact and a written determination concerning revocation of the certificate of authority. The determination may contain an order requiring that credit union to immediately suspend operations or continue in effect a previous order requiring the suspension of operations. If the determination is that the credit union is violating this chapter, or is insolvent, and that the certificate of authority be revoked, and if, for a period of 15 days after the hearing, any violation continues, the administrator may revoke the certificate and take possession of the business and property of the credit union and maintain possession until the administrator shall permit it to continue business or its affairs are finally liquidated.

"(c) The administrator may, with the approval of a majority of the credit union board of the Alabama credit union administration, issue a cease and desist order upon finding that the credit union or any officer, director, committee member, or employee has done any one of the following:

"(1) committed any violation of a law, rule, or regulation.

"(2) engaged or participated in any unsafe or unsound practice in connection with the credit union business.

"(3) engaged in any act, omission, or practice which constitutes a breach of fiduciary duty to the credit union.

"(4) committed any fraudulent or questionable practice in the conduct of the credit union's business which endangers the credit union's reputation or threatens insolvency.

"(5) violated any condition imposed in writing by the administrator or any written agreement made with the administrator.

"(6) concealed, destroyed, removed, falsified, or perjured any book, record, paper, report, statement, or account related to the business and affairs of the credit union.

"Any cease and desist order shall be effective not earlier than 10 days after it is delivered to the credit union. The credit union shall have 10 days from the receipt of any cease and desist order to appeal to the credit union board of the Alabama credit union administration by serving the administrator with a written notice of appeal within the 10-day period. Upon receipt of a notice of

appeal from the credit union, the effect of the cease and desist order will be suspended pending a decision upon appeal; provided that a majority of the credit union board of the Alabama credit union administration may order that a cease and desist order be in force and effect pending the decision on appeal. A hearing of any appeal shall be held before the credit union board of the Alabama credit union administration within 30 days of the notice of appeal and the decision of the credit union board shall be rendered within 15 days after the hearing.

"(d) The administrator of the Alabama credit union administration may suspend from office and prohibit further participation in any manner in the conduct of the affairs of a credit union of any director, officer, committee member, or employee who has done any one of the following:

"(1) committed any violation of a law, rule or regulation.

"(2) engaged or participated in any unsafe or unsound practice in connection with the credit union business.

"(3) engaged in any act, omission or practice which constitutes a breach of fiduciary duty to the credit union.

"(4) committed any fraudulent or questionable practice in the conduct of the credit union's business which endangers the credit union's reputation or threatens insolvency.

"(5) violated any condition imposed in writing by the administrator or any written agreement made with the administrator.

"(6) concealed, destroyed, removed, falsified, or perjured any book, record, paper, report, statement, or account related to the business and affairs of the credit union.

"(e) The administrator of the Alabama Credit Union Administration, with the concurrence of a two-thirds majority of voting members of the Credit Union Board of the Alabama Credit Union Administration may, ex parte without notice, appoint the Alabama Credit Union Administration as conservator and immediately take possession and control of the business and assets of any state-chartered credit union in any case in which any one of the following occurs:

"(1) The Alabama Credit Union Administration determines that the action is necessary to conserve the assets of any state-chartered credit union or the interests of the members of the credit union.

"(2) A credit union, by resolution of its board of directors, consents to the action by the Alabama Credit Union Administration.

"(3) There is a willful violation of a cease-and-desist order which has become final.

"(4) There is concealment of books, papers, records, or assets of the credit union or refusal to submit books, papers, records, or affairs of the credit union for inspection to any examiner or to any lawful agent of the Alabama Credit Union Administration.

"(f) Not later than 10 days after the date on which the Alabama Credit Union Administration takes possession and control of the business and assets of a credit union pursuant to subsection (e), the credit union may apply to the circuit court for the judicial circuit in which the principal office of the credit union is located for an order requiring the administration to show cause why it should not be enjoined from continuing possession and control.

"(g) The administrator shall report to the Credit Union Board of the Alabama Credit Union Administration at least quarterly on the condition of the credit unions in which the administration serves as conservator. Reports shall contain the following:

"(1) The most recent income statement and balance sheet of the credit union.

"(2) Actions taken since the last report by the administrator in its role as conservator of the credit union.

"(3) A detailed report of all expenditures, reimbursements, and other financial considerations paid out of the assets of the credit union to the Alabama Credit Union Administration or its designated agents during conservatorship.

"(4) A business plan outlining necessary actions and timetables under which the credit union would remain under conservatorship.

"(h) The Alabama Credit Union Administration may maintain possession and control of the business and assets of the credit union and may operate the credit union until the time as the following occurs:

"(1) The administrator shall permit the credit union to continue business subject to the terms and conditions as may be imposed by the Alabama Credit Union Administration.

"(2) The credit union is liquidated in accordance with the provisions of Section 5-17-21.

"(3) The Credit Union Board of the Alabama Credit Union Administration votes by a two-thirds majority of voting members that the Alabama Credit Union Administration shall relinquish

possession and control of the credit union. Such vote shall be held on at least a quarterly basis while the credit union is held in conservatorship by the Alabama Credit Union Administration.

"(i) The Alabama Credit Union Administration may appoint agents as it considers necessary in order to assist the administration in carrying out its duties as a conservator under this section.

"(j) All expenses incurred by the administration in exercising its authority under this section with respect to any credit union shall be paid out of the assets of the credit union.

"(k) The conservator shall have all powers of the members, the directors, the officers, and the committees of the credit union and shall be authorized to operate the credit union in its own name or to conserve its assets in the manner and extent authorized by the administration.

"The credit union or any person affected by an order may appeal by written appeal delivered to the administrator within 10 days after the issuance of an order. In the event of an appeal, a hearing shall be held before the credit union board of the Alabama credit union administration within 30 days of the filing of an appeal and the decision shall be rendered by the credit union board within 15 days after the hearing. Unless the administrator directs otherwise, the prohibition against participation in the conduct of the affairs of a credit union will remain effective until the time it is rescinded by a vote of the credit union board of the Alabama credit union administration to rescind the prohibition against participation in the affairs of a credit union."

"§5-17-46.

"(a) The administrator may, with the concurrence of a majority of the members of the credit union board, promulgate such reasonable regulations, consistent with the laws of this state, as may be necessary to carry out the laws over which the Alabama credit union administration has jurisdiction. The administrator shall, in addition, issue written interpretations of credit union laws and regulations. Any credit union and any officer or director thereof relying on any regulation or interpretation shall be fully protected even though the same regulation or interpretation shall be thereafter ruled invalid for any reason by a court of competent jurisdiction.

"(b) Any policy or written interpretation or credit union laws and regulations shall be reviewed for ratification by the credit union board within 90 days after written request for an interpretation by any member of the credit union board. The policy or written interpretation shall be invalidated unless a majority of the

members of the credit union board ratify the interpretation or policy.

"(c) The procedure for adopting, amending, or repealing regulations and for the review or ratification of any policy or interpretation shall be the procedure specified in Section 5-17-47."

"§5-17-55.

"(a) There shall be a credit union board of the Alabama credit union administration which shall consist of the administrator, who shall be an ex officio member and chairman of the board, and seven other persons, appointed by the governor, by and with the consent of the senate, four of which shall be appointed from a list of nominees submitted by the Alabama state credit union legislative forum, which shall submit not less than three nominees for any vacancy. Should the governor determine that none of the first three nominees submitted by the forum for a vacancy on the credit union board are acceptable, the governor may reject the three nominees and the forum shall submit an alternative list of three nominees to the governor from which the Governor shall make the appointment. The remaining three appointments to the credit union board shall be made by the governor from a list of nominees submitted by credit unions at large. No person is eligible to be nominated or appointed to the Credit Union Board unless at the time of nomination or appointment, the person is an officer, director, or manager of a state-chartered credit union and has at least five years experience in the 10 years next preceding appointment as an officer, director, or manager of a credit union. The position of any member of the Credit Union Board shall be declared vacant by the Administrator of the Alabama Credit Union Administration if the member of the Credit Union Board ceases to serve as an officer, director, or manager of a credit union chartered under the laws of the State of Alabama.

"(b) The seven appointees by the governor, with the consent of the senate, shall serve for the terms designated by the governor for each person upon appointment of the persons. Of the seven persons appointed by the governor, with the consent of the senate, three persons shall serve terms expiring on February 1 of the first year following passage hereof, two persons shall serve terms expiring on February 1 of the second year following passage hereof and two persons shall serve terms expiring on February 1 of the third year following passage hereof. Successors shall be appointed by the governor, with the consent of the senate, for terms of three years each, so that the terms of two or three of the seven appointed members will expire on February 1 of each year. Upon the expiration of their terms of office, members of the board shall

continue to serve until their successors are appointed and have qualified.

"(c) If a member of the credit union board of the Alabama credit union administration fails to attend regular meetings of the board for three consecutive meetings, or otherwise fails to perform the duties devolving upon him or her as a member of the credit union board of the Alabama credit union administration, is convicted of a felony or any other crime involving moral turpitude, or ceases to be an officer, director, or manager of a credit union, the office of the member shall be declared vacant by the administrator. The office of the board member shall be deemed to be vacated on the thirty-first day after mailing of a notice to the board member that his or her the position is being vacated unless the board member files an appeal with the credit union board prior to the thirty-first day after mailing of notice. Except that no appeal is authorized if the member's position is declared vacant by reason of conviction of a felony or a crime involving moral turpitude.

"Any person who is notified that his or her position on the board has been declared vacant by the administrator may, within 30 days after mailing of the notice that the position has been declared vacant, appeal to the other members of the credit union board by written notice of appeal received by the administrator within the time period.

"Upon a finding of good cause for the failure to attend meetings or otherwise perform duties, or upon a finding that there is a compelling reason for reinstating the member, a majority of board members may reinstate the person to the position. When the member appeals to the credit union board, unless reinstated by the board within 30 days after appeal, the position on the board shall be deemed to be vacant on the thirty-first day after receipt by the administrator of the member's written notice of the appeal. The administrator shall call a meeting to hear the appeal within 30 days after receipt of the notice of appeal. The board member who has received notice that the position will be declared vacant shall have the right to present at any hearing dealing with the position being declared vacant, but shall not have the right to vote on any issue until he or she is reinstated by the credit union board.

"(d) If by reason of death, resignation, removal from office or otherwise a vacancy occurs on the credit union board, the vacancy shall be filled by appointment of the governor and the appointee shall hold office until the senate meets and passes on the appointment. If the appointment is disapproved by the senate, another appointment shall be made by the governor, and appointments

must be made in like manner until an appointment is confirmed by the senate. Any person so appointed shall serve the balance of the unexpired term for which the appointment is made. The seven appointed members of the credit union board shall be persons of good character. Five of the seven shall have at least five years' experience in the 10 years next preceding appointment to the credit union board either as an officer, director, or manager of a credit union organized under the laws of the state of Alabama.

"(e) An appeal may be taken to the credit union board from any finding, ruling, order, decision or the final action of the administrator by any credit union which feels aggrieved thereby. Notice of appeal shall be filed with the administrator within 30 days after the findings, ruling, order, decision or other action. The notice shall contain a brief statement of the pertinent facts upon which the appeal is grounded. The credit union board shall fix a date, time and place for hearing the appeal, within 60 days after it is filed, and shall notify the credit union or its attorney of record thereof at least 30 days prior to the date of the hearing. The finding of the credit union board shall be strictly advisory in nature."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 10, 1995

Time: 1:45 P.M.

Act No. 95-316 H. 603 – Reps. Ford, Galliher

AN ACT

To propose an amendment to the Constitution of Alabama of 1901, for Etowah County, providing further for license taxes on certain real estate operations and transactions.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

(a) In order to allow for the orderly and efficient collection of municipal business license taxes in Etowah County with respect to corporations, firms, brokers, agents, and others in the business of buying, selling, leasing, or representing others in the purchase, sale or lease of real property in Etowah County, the Legislature

may, by local law, provide for the imposition and collection of taxes as follows:

(1) Any city or municipality within Etowah County may fix and collect licenses pursuant to Sections 11-51-90 and 11-51-91, Code of Alabama 1975, for any business, trade, or profession relating to the buying, selling, or renting of real estate on commission in Etowah County if the licensee maintains its principal place of business in the corporate limits or police jurisdiction of that city or municipality.

(2) Effective January 1, following the ratification of this amendment and each year thereafter, in addition to the taxes, if any, imposed under (1) above, every corporation, firm, broker, agent, or other person or entity engaged in the business of buying, selling, managing, leasing, or renting of real estate on commission in Etowah County shall pay an annual business license tax at a rate to be set by the city and county for the privilege of engaging in that business in every other city or municipality in Etowah County. The tax shall be collected by the License Commissioner of Etowah County and shall be distributed by the License Commissioner of Etowah County to each city or municipality within Etowah County on a pro rata basis based on population. The License Commissioner of Etowah County shall be entitled to an administrative fee for administering this tax at a rate to be set by the Legislature. The fee shall be added to the license tax.

(3) Effective January 1, following the ratification of this amendment and each year thereafter, except, for the licenses permitted or mandated under (1) or (2) above, no other privilege license tax or any other fee or tax shall be imposed under Sections 11-51-90 and 11-51-91, Code of Alabama 1975, or any other law by any city or municipality within Etowah County on corporations, firms, brokers, agents, or other persons or entities engaged in the business of buying, selling, managing, leasing, or renting of real estate on commission in Etowah County.

(b) This amendment shall not become effective unless approved at a referendum by a majority of the qualified electors of Etowah County voting on the proposition. The referendum shall be held at the same time as the election for the ratification of this amendment, as provided for in Section 2 of this act, and no further election shall be required.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the general election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the

election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Etowah County, proposing an amendment of the Constitution of Alabama of 1901, providing further for license taxes on certain real estate operations and transactions.

Proposed by Act _____"

This description shall be followed by the following language:

"Yes ( ) No ( )."

CONSTITUTIONAL AMENDMENT

Passed the House June 1, 1995

Passed the Senate June 29, 1995

Act No. 95-317 H. 707 – Reps. Guin, Hogan

AN ACT

To propose and provide for the submission of an amendment to the Constitution of Alabama of 1901; to grant certain powers and authority to Walker County and each municipality situated wholly therein relating to the acquisition, leasing, sale, and development of industrial sites and industrial park projects; and to specify that actions authorized by this amendment taken subsequent to January 1, 1995, are ratified.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

For the promotion of local economic and industrial development of Walker County, Walker County and each municipality the corporate limits of which are located wholly in the county shall, other provisions of law or this constitution notwithstanding, have, independently or in cooperation with one or more of such governmental entities, full and continuing power to do all of the following:

(1) To purchase, lease, or otherwise acquire land, or to utilize land heretofore purchased or otherwise acquired, and to improve and develop such land for use as industrial sites or industrial park projects, including, but not limited to, grading and the construction of roads, drainage, sewers, sewage and waste disposal systems, parking areas, and utilities to serve those sites or projects.

(2) To lease, sell, grant, exchange, or otherwise convey, on terms approved by the governing body of the county or any such municipality, as applicable, all or any part of any site or project to any person, firm, or corporation, public or private, including any industrial development board, other public corporation or authority heretofore or hereafter created by the county or any municipality therein, for the purpose of constructing or developing, by a purchaser or lessee, and equipping and operating, industrial, transportation, distribution, warehouse or research facilities, and offices and other facilities auxiliary to the foregoing.

(3) To grant public funds to the industrial development boards, public corporations, or authorities.

Any action referred to in subdivision (1), (2), and (3) which has been taken subsequent to January 1, 1995, is ratified, approved, and confirmed. Nothing herein shall authorize the county, or any municipality therein, to construct buildings for the purpose of lease or sale.

In carrying out the purposes of this amendment, neither Walker County nor any municipality located wholly within Walker County shall be subject to the provisions of Sections 93 or 94 of this constitution, as amended. The Legislature shall have the power, by special or local law, to create, or provide for the creation of, any public corporation, authority, board, agency, or other entity empowered or intended to assist or aid in any way the county or the municipality in carrying out the purposes of this amendment and the special or local law shall not be subject to the provisions of Sections 104 and 106 of this constitution, as amended. This amendment shall be self-executing and the powers granted hereby may be exercised as an alternative to, or cumulative with, and in no way restrictive of, powers otherwise granted by law to the county, or to any municipality, or to any agency, board, or authority created pursuant to the laws of this state and acting pursuant to this amendment.

No action may be taken under this amendment by the county or any of the municipalities until after the question of whether the county and the municipalities shall have the authority to take the action shall be submitted to the qualified electors of the county, at an election called for that purpose by the governing body of the county and a majority of the qualified electors voting at the election vote in favor of the county and the municipalities having the authority to take action.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the general election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Walker County, proposing an amendment of the Constitution of Alabama of 1901, to allow Walker County or each municipality, individually or collectively, to create an industrial site or industrial park project and to acquire, lease, sell, or develop such projects retroactively to January 1, 1995.

Proposed by Act _____"

This description shall be followed by the following language:

"Yes ( ) No ( )."

CONSTITUTIONAL AMENDMENT

Passed the House June 14, 1995

Passed the Senate June 29, 1995

Act No. 95-318 H. 109 – Reps. Hill, Knight (A)

AN ACT

To propose an amendment to the Constitution of Alabama of 1901, for Shelby County, providing further for license taxes on certain real estate operations and transactions.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

(a) In order to allow for the orderly and efficient collection of municipal business license taxes in Shelby County with respect to corporations, firms, brokers, agents, and others in the business of buying, selling, leasing, or representing others in the purchase, sale, or lease of real property in Shelby County, the Legislature may, by local law, provide for the imposition and collection of taxes as follows:

1. Any city or municipality within Shelby County may fix and collect licenses pursuant to Sections 11-51-90 and 11-51-91, Code of Alabama 1975, for any business, trade, or profession relating to the buying, selling, or renting of real estate on commission in

Shelby County if the licensee maintains its principal place of business in the corporate limits or police jurisdiction of that city or municipality.

2. Effective January 1, following the ratification of this amendment and each year thereafter, in addition to the taxes, if any, imposed under 1. above, every corporation, firm, broker, agent, or other person or entity engaged in the business of buying, selling, managing, leasing, or renting of real estate on commission in Shelby County shall pay an annual business license tax at a rate to be set by the Legislature for the privilege of engaging in that business in every other city or municipality in Shelby County. The tax shall be collected by the License Commissioner of Shelby County and shall be distributed by the License Commissioner of Shelby County to each city or municipality within Shelby County on a pro rata basis based on population. The License Commissioner of Shelby County shall be entitled to an administrative fee for administering this tax at a rate to be set by the Legislature. The fee shall to be added to the license tax.

3. Effective January 1, following the ratification of this amendment and each year thereafter, except for the licenses permitted or mandated under 1. and 2. above, no other privilege license tax or any other fee or tax shall be imposed under Sections 11-51-90 and 11-51-91, Code of Alabama 1975, or any other law by any city or municipality within Shelby County on corporations, firms, brokers, agents, or other persons or entities engaged in the business of buying, selling, managing, leasing, or renting of real estate on commission in Shelby County.

(b) This amendment shall not become effective unless approved at a referendum by a majority of the qualified electors of **Shelby County voting on the proposition. The referendum shall be** held at the same time as the election for the ratification of this amendment, as provided for in Section 2 of this act, and no further election shall be required.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the general election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Shelby County, proposing an amendment of the Constitution of Alabama of 1901, to allow local legislation

authorizing cities and municipalities to collect license taxes on firms engaged in the real estate business and to preclude the imposition of any future tax on those engaged in the real estate business.

Proposed by Act _____"

This description shall be followed by the following language:

"Yes ( ) No ( )."

CONSTITUTIONAL AMENDMENT

Passed the House June 1, 1995

Passed the Senate July 11, 1995

Act No. 95-319 H. 638 – Rep. Dolbare

AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, to provide that certain elected public officials in Washington County may participate in the Employees' Retirement System in lieu of participating in a supernumerary program or system.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

No person elected or appointed sheriff, or any elected or appointed Washington County official, may assume a supernumerary office after the effective date of this amendment. Any person who, on the effective date of this amendment, is entitled to participate in a supernumerary program may continue to participate in that supernumerary program, which shall include the assumption of a supernumerary office according to the terms and conditions of the law which established that supernumerary program. Every sheriff and elected or appointed Washington County official may participate in the Employees' Retirement System of Alabama upon the same terms and conditions as may be specified by law for any other employee in the same retirement system. Washington County officials holding office at the time of the ratification of this amendment shall be eligible to purchase service credit in the Employees' Retirement System for the time the official has served in the current office; provided, however, the official shall forego the assumption of a supernumerary office. For the purposes of this

amendment, the words "elected or appointed county official" shall include any person appointed to serve the remaining term of an elected or appointed county official, but shall not include a judge, district attorney, legislator, constable, school board member, or any official elected from a judicial circuit.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the general election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Washington County, proposing an amendment to the Constitution of Alabama of 1901, to phase-out the supernumerary system for certain elected public officials and allow them to participate in the Employees' Retirement System.

Proposed by Act _____"

This description shall be followed by the following language:

"Yes ( ) No ( )."

CONSTITUTIONAL AMENDMENT

Passed the House June 20, 1995

Passed the Senate July 11, 1995

Act No. 95-320 H. 805 – Rep. Dolbare

AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, ratifying and confirming the results of a referendum election held in 1994 in Washington County pursuant to Amendment No. 269 to this Constitution.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

Notwithstanding any other laws or provisions of this Constitution, the results of the referendum election held pursuant to Amendment No. 269 of this Constitution in Washington County in conjunction with the 1994 general election are ratified and confirmed.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the general election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Washington County, proposing an amendment to the Constitution of Alabama of 1901, to ratify and confirm the results of a referendum election held in Washington County in 1994 pursuant to Amendment No. 269 to the Constitution of Alabama of 1901.

Proposed by Act _____"

This description shall be followed by the following language:

"Yes ( ) No ( )."

CONSTITUTIONAL AMENDMENT

Passed the House June 15, 1995

Passed the Senate July 11, 1995

Act No. 95-321 S. 449 – Senators Bailey, Adams, Butler, and Freeman

AN ACT

To amend Section 40-9B-3, Code of Alabama 1975, and Acts 1993, 1st Extra Session, No. 93-851, p. 79, § 1, now appearing as Section 41-10-44.2, Code of Alabama 1975; to expand the industrial or research enterprise categories which qualify for tax abatements and site preparation grants, respectively, to include cotton gins; and to provide a retroactive effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 40-9B-3, Code of Alabama 1975, and Acts 1993, 1st Extra Session, No. 93-851, p. 79, § 1, now appearing as Section 41-10-44.2, Code of Alabama 1975, are amended to read as follows:

"§40-9B-3.

"For purposes of this chapter, the following words and phrases mean:

"(a) ABATE, ABATEMENT. A reduction or elimination of a taxpayer's liability for tax. An abatement of transaction taxes

imposed under Chapter 23 of Title 40, shall relieve the seller from the obligation to collect and pay over the transaction tax as if the sale were to a person exempt, to the extent of the abatement, from the transaction tax.

"(b) CONSTRUCTION RELATED TRANSACTION TAXES. The transaction taxes imposed by Chapter 23 of Title 40, on tangible personal property and taxable services incorporated into an industrial development property, the cost of which may be added to capital account with respect to the property, determined without regard to any rule which permits expenditures properly chargeable to capital account to be treated as current expenses.

"(c) EDUCATION TAXES. Ad valorem taxes that must, pursuant to the Constitution of Alabama of 1901, as amended, legislative act, or the resolution or other action of the governing board authorizing the tax, be used for educational purposes or for capital improvements for education and local construction related transaction taxes levied for educational purposes or for capital improvements for education.

"(d) INDUCEMENT. Refers to an agreement, or an "inducement agreement," entered into between a private user and a public authority or county or municipal government and/or a resolution or other official action, an "inducement resolution," "inducement letter," or "official action" adopted by a public authority or county or municipal government, in each case expressing, among other things, the present intent of such public authority or county or municipal government to issue bonds in connection with the private use property therein described.

"(e) INDUSTRIAL DEVELOPMENT PROPERTY. Real and/or personal property acquired in connection with establishing or expanding an industrial or research enterprise in Alabama.

"(f) INDUSTRIAL OR RESEARCH ENTERPRISE. Any trade or business described in 1987 Standard Industrial Classification Industry Group Number 0724, Major Groups 20 to 39, inclusive, 50 and 51, Industrial Group Number 737, and Industry Numbers 8731, 8733, and 8734, as set forth in the Standard Industrial Classification Manual published by the United States Government Office of Management and Budget.

"(g) MAJOR ADDITION. Any addition to an existing industrial development property that equals the lesser of: 30 percent of the original cost of the industrial development property or $2,000,000. For purposes of this subsection, the original cost of existing industrial development property shall be the amount of industrial development property with respect to which an abatement was granted

under this chapter when the property was constructed, or if the existing industrial development property was constructed before January 1, 1993, the maximum amount that would have been allowed if the provisions of this chapter had applied at the time it was constructed. Only property that constitutes industrial development property shall be taken into account in making the determination in the previous sentence.

"(h) MAXIMUM EXEMPTION PERIOD. A period equal to the shorter of:

"(1) Ten years from and after:

"(A) The date of initial issuance by a county, city, or public authority of bonds to finance any costs of a private use property, or

"(B) If no such bonds are ever issued, the later of: (i) the date on which title to such property was acquired by or vested in such county, city, or public authority, or (ii) the date on which such property is or becomes owned, for federal income tax purposes, by a private user; or

"(2) The weighted average economic life of the assets comprising such property, determined consistently with the provisions of 26 U.S.C. § 147(b) and measured from the date such property is placed in service.

"(i) MORTGAGE AND RECORDING TAXES. The taxes imposed by Chapter 22 of Title 40.

"(j) NONEDUCATIONAL AD VALOREM TAXES. Ad valorem taxes imposed by the state, counties, municipalities, and other taxing jurisdictions of Alabama that are not required to be used for educational purposes or for capital improvements for education.

"(k) PERSON. Includes any individual, partnership, trust, estate, or corporation.

"(l) PRIVATE USER. Any individual, partnership, or corporation organized for profit that is or will be treated as the owner of private use property for federal income tax purposes.

"(m) PRIVATE USE INDUSTRIAL PROPERTY. Private use property that also constitutes industrial development property.

"(n) PRIVATE USE PROPERTY. Any real and/or personal property which is or will be treated as owned by a private user for federal income tax purposes even though title may be held by a public authority or municipal or county government.

"(o) PUBLIC AUTHORITY. A corporation created for public purposes pursuant to a provision of the Constitution of Alabama of

1901 or a general or local law that authorized it to issue bonds, the interest on which is exempt from the Alabama income tax, as in effect on May 21, 1992.

"(p) PUBLIC INDUSTRIAL AUTHORITY. A public authority authorized to issue bonds to acquire, construct, equip or finance industrial development property.

"§41-10-44.2.

"In addition to the definitions contained in Sections 41-10-20 and 41-10-36, the following terms shall have the following meanings, respectively, when used in this Article 2A unless the context clearly requires otherwise:

"(1) APPROVED COMPANY. Any corporation, partnership, trust or other form of business entity approved by the authority pursuant to the provisions hereof.

"(2) FINANCING AGREEMENT. Any loan, agreement, financing agreement, credit agreement, security agreement, mortgage, guaranty agreement or other type of agreement entered into by the authority and an approved company in connection with the financing of a project by the authority.

"(3) INDUSTRIAL OR RESEARCH ENTERPRISE. Any trade or business described in 1987 Standard Industrial Classification Major Group 07, Major Groups 20 through 39, inclusive, 50 and 51, Industrial Group Number 737, and Industry Numbers 8731, 8733 and 8734, as set forth in the Standard Industrial Classification Manual published by the United States Government Office of Management and Budget, and includes such trades and businesses as the same may be hereafter reclassified in any subsequent publication of the Standard Industrial Classification Manual.

"(4) JOB DEVELOPMENT FEE. The amount permitted to be withheld by an approved company from the gross wages of the employees at a project pursuant to the provisions of this article.

"(5) MAJOR PROJECT. Any project the capital cost of which is expected to equal or exceed $100,000,000.

"(6) PROJECT. Any land, building or other improvement, and all real and personal properties deemed necessary or useful in connection therewith, whether or not now in existence, which shall be located in the state and shall be acquired, constructed, expanded or installed for use by an approved company as an industrial or research enterprise.

"(7) PROJECT COSTS. All costs and expenses incurred by the authority or an approved company in connection with the

acquisition, construction, installation and equipping of a project, including, without limitation, each of the following:

"a. The costs of acquiring, constructing, installing and equipping a project, including all obligations incurred for labor and to contractors, subcontractors, builders, and materialmen.

"b. The costs of acquiring land or rights in land and any cost incidental thereto, including recording fees.

"c. The costs of contract bonds and of insurance of all kinds that may be required or necessary during the acquisition, construction or installation of a project.

"d. The costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, environmental mitigation and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction and installation of a project.

"e. The costs associated with installation of fixtures and equipment; surveys, including archeological and environmental surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provisions for drainage, storm water retention, installation of utilities, including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the property; and paving.

"f. Interest costs prior to and during the acquisition, construction, installation and equipment of the project and for a period of up to two years after completion of the project.

"g. All costs, expenses and fees incurred in connection with the issuance of project obligations, including, without limitation, all legal, accounting, financial, printing, recording, filing and other fees and expenses.

"h. The costs for obtaining bond insurance, letters of credit or other forms of credit enhancement or liquidity facilities.

"i. All other costs of a nature comparable to those described.

"(8) PROJECT OBLIGATION. Any bond, note, debenture, certificate or other form of indebtedness, including refunding bonds or obligations, issued by the authority pursuant to this Article 2A.

"(9) TAX INCREMENT FUND. Any trust fund established pursuant to Section 41-10-44.8."

Section 2. The provisions of this amendatory act shall have retroactive effect to January 1, 1995.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on July 12, 1995 without approval by the Governor.

Act No. 95-322 H. 697 – Rep. Ford

AN ACT

Relating to Etowah County; to provide for the establishment of the "Etowah County Library Committee"; to provide that the committee would have authority to disburse funds received from a sales tax; to provide for the membership of the committee; to provide for appointments of members and filling of vacancies; to provide for the terms of the members; to provide for compensation; and to provide for staff and compensation of the staff of the committee.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be operative only in Etowah County.

Section 2. There is created the "Etowah County Library Committee" which shall have all authority as to the expenditure of funds received from the one cent ($.01) sales tax which is provided by Act No. ___, H. ___ of the 1995 Regular Session (Acts 1995, p. ___). The funds shall be used only for the maintenance and operation of libraries and to purchase books and other related supplies for the libraries.

Section 3. The committee shall be composed of five members, four of whom shall be appointed by the county legislative delegation, and the fifth member who shall not have voting privileges shall be the Etowah County Administrator. Each member of the committee shall serve for four years, and vacancies on the committee shall be filled by the appointing authority. The committee shall be appointed within 90 days after the effective date of this act. The first meeting of the committee shall be set by the Etowah County Administrator. Thereafter, the committee may meet as provided in its bylaws.

Section 4. The committee shall not spend any funds received from the sales tax to employ personnel to work for the committee or pay any compensation to the members of the committee. The county commission shall provide a secretary for the committee and pay the salary of the secretary.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this act are repealed.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on July 12, 1995 without approval by the Governor.

Act No. 95-323 H. 839 – Rep. Gipson

AN ACT

Relating to Autauga County; to levy and collect an eight mill countywide ad valorem tax and a one cent countywide sales tax for education, improvement of unpaved roads, courthouse complex facilities, volunteer fire departments, and for Prattville, Autaugaville, and Billingsley.

Be It Enacted by the Legislature of Alabama:

Section 1. The provisions of this act shall apply to all portions of Autauga County.

Section 2. The one cent countywide sales tax and eight mill countywide ad valorem tax authorized by this act shall be voted on in a special countywide referendum.

Section 3. The Autauga County Commission may levy and collect an eight mill countywide property tax and a one cent countywide sales tax, in addition to all other taxes authorized under the constitution and laws of Alabama. The ad valorem tax authorized shall not, if levied, exceed eight mills on each dollar's worth of taxable property in Autauga County as assessed for state taxation during the preceding year. The sales tax authorized shall not, if levied, exceed one cent on each dollar's worth of taxable sales in Autauga County. Proceeds of the taxes shall be used exclusively as specifically provided in this act.

Section 4. The taxes, if levied, shall be in effect for a period of 20 years, commencing October 1, 1995.

Section 5. If these taxes are approved by the voters in the referendum, the Autauga County Commission shall remove the existing one cent special county sales tax authorized by the Autauga County Commission and earmarked for education.

Section 6. The revenue produced by these taxes shall be earmarked, deposited into a special fund of the Autauga County Commission, and allocated for the specific purposes listed as follows:

(1) Education (physical facilities, fixtures, technological equipment, buses, like expenditures, capital improvements, and maintenance) - 64 percent.

(2) Improvement of county roads (all phases of conversion of unpaved roads to paved roads) - 19.5 percent.

(3) Courthouse complex facilities (improvements or additions to facilities) - seven percent.

(4) Volunteer fire departments (periodic grants as determined by committee established by the Autauga County Commission) - six percent.

(5) City of Prattville (to be used as determined by appropriate city officials) - two percent.

(6) Town of Autaugaville (improvements as determined by appropriate town officials) - one percent.

(7) Town of Billingsley (improvements as determined by appropriate town officials) - 0.5 percent.

Section 7. This act shall be inoperative and void unless it is approved by a majority of the qualified electors of Autauga County in the special countywide referendum to be held on September 19, 1995. Notice of the election shall be given by the Judge of Probate of Autauga County as provided by state law. On the ballots to be used in the referendum, the proposition to be voted on shall be stated substantially as follows: "Do you favor the local law authorizing the levy of a one cent countywide sales tax and an eight mill countywide ad valorem tax to help fund education, improvement of unpaved county roads, courthouse complex facilities, volunteer fire departments, the City of Prattville, the Town of Autaugaville, and the Town of Billingsley?" Yes ____ No ____

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on July 12, 1995 without approval by the Governor.

Act No. 95-324 H. 830 – Rep. Parker (P)

AN ACT

To propose a local constitutional amendment to the Constitution of Alabama of 1901, to provide that the Legislature may, by local law, provide for the manner of filling vacancies on the Morgan County Board of Education.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901 is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

The Legislature may, by local act, provide for the manner of filling vacancies on the Morgan County Board of Education.

Section 2. An election on the proposed amendment shall be held at the next general election or at the next special, primary, county, or constitutional election held after this act is adopted. The election shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the general election laws of the state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Morgan County, proposing an amendment to the Constitution of Alabama of 1901, that allows the Legislature, by local act, to provide the manner of filling vacancies on the Morgan County Board of Education.

Proposed by Act _____"

This description shall be followed by the following language:

"Yes ( ) No ( )."

CONSTITUTIONAL AMENDMENT

Passed the House June 27, 1995

Passed the Senate July 12, 1995

Act No-95-325 H.J.R. 343 – Rep. White

HOUSE JOINT RESOLUTION

COMMENDING BILLY JOE THROWER OF MADISON COUNTY AS A FIRST RECIPIENT OF THE ALABAMA LEGISLATURE LAW ENFORCEMENT MEDAL.

WHEREAS, it is with highest commendation that the Legislature of Alabama recognizes Deputy Sheriff Billy Joe Thrower of the Madison County Sheriff's Department as a first recipient of the Alabama Legislature Law Enforcement Medal of

Honor, the state's highest law enforcement award for extraordinary courage in the line of duty; and

WHEREAS, Madison County Deputy Sheriff Billy Joe Thrower, a 16-year veteran of the Madison County Sheriff's Department, was critically wounded in the line of duty on November 1, 1994, in an incident involving the taking into custody of a county resident for mental evaluation in which another deputy sheriff, Thomas Robert Lewis, died; and

WHEREAS, during the incident, the assailant opened fire on Deputy Thrower and the three other deputies present with a 12-gauge shotgun, critically injuring Deputy Thrower, who, despite his own injury, was able to return fire and kill the assailant, thereby preventing further injury or death to the remaining two deputies; and

WHEREAS, Deputy Thrower experienced kidney failure as a complication of his wounds; and

WHEREAS, thanks to the love and sacrifice of his beloved sister, Anita Scheidecker, who donated a kidney in a delicate operation performed recently at UAB Hospital, Deputy Thrower is recovering, and we wish for him a complete and speedy recovery; and

WHEREAS, Deputy Thrower is truly a worthy exemplar of the dedicated law enforcement officer who, under the most adverse conditions, willingly places his life in jeopardy in his dedicated commitment to duty; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Deputy Sheriff Billy Joe Thrower as a first recipient of the Alabama Legislature Law Enforcement Medal of Honor, and, with sincere best wishes, direct that he receive a copy of this resolution as a measure of our admiration and esteem.

Approved July 13, 1995

Time: 1:45 P.M.

Act No. 95-326 H.J.R. 344 – Rep. White

HOUSE JOINT RESOLUTION

COMMENDING EARNEST IVY EVANS OF CAMDEN, ALABAMA, AS A FIRST RECIPIENT OF THE ALABAMA LEGISLATURE LAW ENFORCEMENT MEDAL.

WHEREAS, it is with highest commendation that the Legislature of Alabama recognizes Chief Deputy Sheriff Earnest Ivy Evans of the Wilcox County Sheriff's Department as a first

recipient of the Alabama Legislature Law Enforcement Medal of Honor, the state's highest law enforcement award for extraordinary courage in the line of duty; and

WHEREAS, on the evening of April 23, 1994, having returned from the investigation of a robbery call at a residence in Coy, Alabama, Chief Deputy Evans overheard the radio dispatch of state troopers who were checking the registration of a pick-up truck they has stopped for a headlight violation; and

WHEREAS, Deputy Evans, recognizing the description of the vehicle as the one used in the robbery earlier, responded to the scene; and

WHEREAS, as he approached the vehicle and opened the driver-side door, a shot was fired by the vehicle driver, injuring Deputy Evans in the mouth and chest; and

WHEREAS, a return of gunfire ensued by Deputy Evans and troopers on the scene, killing the suspect; Deputy Evans, however, fortunately recovered from his serious injuries within several months; and

WHEREAS, Chief Deputy Evans is truly a worthy exemplar of the dedicated law enforcement officer who, under the most adverse conditions, willingly places his life in jeopardy in his dedicated commitment to duty; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Chief Deputy Sheriff Earnest Ivy Evans as a first recipient of the Alabama Legislature Law Enforcement Medal of Honor, and, with sincere best wishes, direct that he receive a copy of this resolution as a measure of our admiration and esteem.

Approved July 13, 1995

Time: 1:46 P.M.

Act No. 95-327 S.J.R. 124 – Senators Davidson, Adams, Amari, Armistead, Bailey, Barron, Bedford, Biddle, Butler, Clay, Denton, Dial, Dixon, Escott-Russell, Figures, Freeman, Ghee, Hale, Hill, Langford, Lindsey, Lipscomb, Little, McClain, Mitchell, Mitchem, Myers, Poole, Roberts, Sanders, Smith, Smitherman, Steele, Waggoner, and Windom

SENATE JOINT RESOLUTION

HONORING LEIGH SHERER, MISS ALABAMA 1995.

WHEREAS, it is with great pride and utmost pleasure that the Alabama Legislature honors Miss Leigh Sherer, Miss Alabama 1995; and

WHEREAS, Leigh Sherer, whose platform is M.U.S.I.C.-Music Underscores Success In Children, is a senior at Samford University, where she is an active participant in Pi Kappa Lambda Honorary Music Fraternity, Alpha Delta Pi Sorority, and the A Cappella Choir; and

WHEREAS, a piano student for 15 years, and voice student for 5 years, Leigh Sherer was 1992 Miss Samford University, 1995 Miss Walker Area, and 1994 Miss Point Mallard, and has been furthermore honored as the Concerto Aria double winner in both piano and voice, and the recipient of the J. C. Penney Golden Rule Award; and

WHEREAS, Miss Sherer, whose hobbies include reading, traveling, and listening to classical music, has selflessly dedicated her time to take part in Adventures in Music Camp at Samford University, and has directed Christmas Programs for multi-handicapped class at Hoover High School; and

WHEREAS, Leigh Sherer is a distinguished Alabamian, who is well-deserving of this special recognition in honor of her countless accomplishments; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and warmest congratulations to Miss Leigh Sherer, who was crowned Miss Alabama 1995 on June 17, 1995, and do furthermore direct that a copy of this resolution shall be provided as evidence of our sincere personal regard with best wishes for every future happiness and success.

Approved July 13, 1995

Time: 9:15 A.M.

Act No. 95-328 S.J.R. 127 – Senators Waggoner, Adams, Amari, Armistead, Bailey, Barron, Bedford, Biddle, Butler, Clay, Davidson, Denton, Dial, Dixon, Escott-Russell, Figures, Freeman, Ghee, Hale, Hill, Langford, Lindsey, Lipscomb,

Little, McClain, Mitchell, Mitchem, Myers, Poole, Roberts, Sanders, Smith, Smitherman, Steele, and Windom

SENATE JOINT RESOLUTION

CONGRATULATING MR. THOMAS J. LINDLEY, III, ON BEING NAMED EDITOR OF HIS HOMETOWN NEWSPAPER, THE JEFFERSONVILLE EVENING NEWS.

WHEREAS, it is with great pride and pleasure that the Alabama Legislature congratulates our talented and respected friend, Mr. Thomas J. Lindley, III, for being named editor of the Jeffersonville Evening News in Jeffersonville, Indiana; and

WHEREAS, Mr. Lindley, who is a graduate of Indiana State University, has been Bureau Chief of the Birmingham News for the past eight years, will be returning to his hometown of Jeffersonville, where his journalism career began, to take on this exciting new position; and

WHEREAS, a regular commentator on Alabama Public Television's, "For The Record," Mr. Lindley has worked in Evansville, Indiana, and has served as the Sports News Editor and Executive Sports Editor for the Birmingham Post-Herald and Pittsburg Press, respectively; and

WHEREAS, Mr. Lindley is a devoted husband to his wife, Janet Byram, who is an Alabama native, and they are the proud parents of two children, Will and Kathryn; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and warmest congratulations to Mr. Thomas J. Lindley, III, on being named editor of his hometown paper, the Jeffersonville Evening News, and do furthermore direct that a copy of this resolution be provided with best wishes for every future happiness and success.

Approved July 13, 1995

Time: 1:40 P.M.

Act No. 95-329 S.J.R. 128 – Senator Waggoner

SENATE JOINT RESOLUTION

COMMENDING BILL INGRAM ON HIS RETIREMENT FROM THE BIRMINGHAM POST-HERALD.

WHEREAS, Bill Ingram, of Homewood, Alabama, is retiring on July 19, 1995, after 43 years of dedicated service with the

Birmingham Post-Herald, and it is appropriate at this time to highlight his life and many achievements, and to extend special public recognition and commendation to him for his professional career; and

WHEREAS, the son of John Leonard and Nicie Averitt Ingram, Bill Ingram was born in Dallas County, attended schools in Selma and Birmingham, and was a graduate of Glenn High School and a student at Birmingham-Southern College; and

WHEREAS, Mr. Ingram graduated from the United States Army Photo School, where he gained prominence for his successful endeavors as an Army photographer, and after completing his military service, he accepted a position with the Birmingham Post-Herald, where he has been noted for his many extraordinary accomplishments as one of Alabama's most outstanding photojournalists; he has photographed presidents and governors; covered countless football games and news events in Alabama, as well as captured Alabama life, culture and sporting events; and

WHEREAS, Bill Ingram has received over 100 awards from the Associated Press, United Press, Alabama Press Association, and Scripps-Howard Newspapers, and his insightful photographs have appeared in many national newspapers and magazines; and

WHEREAS, Bill and his wife, Betty Elam Ingram, are the proud parents of three sons, Bill, Jr., Phillip, and Jon; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most heartily commend Mr. Bill Ingram on his long and distinguished career in photojournalism, and extend sincere best wishes for a rewarding and gratifying retirement.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided for Mr. Ingram as an expression of our sincere gratitude and esteem.

Approved July 13, 1995

Time: 1:41 P.M.

Act No. 95-330 S.J.R. 123 – Senator Davidson

SENATE JOINT RESOLUTION

COMMENDING THE BIRMINGHAM SOUTHERN COLLEGE BASKETBALL TEAM FOR OUTSTANDING ACCOMPLISHMENT.

WHEREAS, it is with great pride and utmost pleasure that the Alabama Legislature honors the Birmingham Southern Basketball Team for tremendous achievement; and

WHEREAS, under the guidance of Head Coach Duane Reboul, who was selected as Southern States Conference Coach of the Year and is the NAIA's winningest coach in the country, the Birmingham Southern Basketball Team soundly defeated its opponents to prevail victorious as the champion of the NAIA Basketball Championship; and

WHEREAS, through many hours of hard work, dedication, tenacity, and help from Assistant Coaches Dwight Evans and Paul Arthur, the Birmingham Southern Basketball Team had the longest winning streak in the nation, and finished the season with an impressive record of 35 wins and only 2 losses; and

WHEREAS, the members of the Birmingham Southern Basketball Team are well deserving of this special recognition, and they are: Chris Armstrong, Obra Carter, James Cason (Tournament MVP, All-Tournament Team, First Team All-American), Nigel Coates, Bo Coln, Tommy Dalley (All-Tournament Team), Dwayne Elliot, Paul Fleming (All-Conference Team), Todd Largen, Jay Mitchell, Tom Runnion, Mike Schwallie, Eddie Walter, Damon Wilcox, and Will Worrell; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and warmest congratulations to the coaches and members of the Birmingham Southern College Basketball Team, the winners of the NAIA Basketball Championship, and do furthermore direct that a copy of this resolution be provided as evidence of our pride and esteem, and for appropriate presentation and display at Birmingham Southern.

Approved July 13, 1995

Time: 3:00 P.M.

Act No. 95-331 S.J.R. 92 – Senators Waggoner and Biddle

SENATE JOINT RESOLUTION

CREATING A JOINT LEGISLATIVE STUDY COMMITTEE TO EVALUATE THE NEEDS OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES AND THEIR FAMILIES.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby

created a joint legislative study committee to study the needs of individuals with developmental disabilities and their families. The committee shall be composed of the Commissioner of the Department of Mental Health and Mental Retardation; the Associate Commissioner for Mental Retardation of the Department of Mental Health and Mental Retardation; the Commissioner of the Medicaid Agency; the Commissioner of the Department of Rehabilitation Services; the Commissioner of the Department of Human Resources; the State Health Officer; the Superintendent of the Department of Education; two members of the Senate appointed by the Lieutenant Governor; two members of the House of Representatives appointed by the Speaker of the House of Representatives; a representative from the Governor's office; the president of the board of directors or representative of the following organizations: Alabama Developmental Disabilities Consortium, The ARC of Alabama, Alabama Conference of Executives of the ARC, United Cerebral Palsy of Alabama, Autism Society of Alabama, Alabama Head Injury Foundation, Alabama Developmental Disabilities Planning Council, Alabama Disabilities Advocacy Program, Alabama Epilepsy Association, Civitan International Research Center, Alabama Deaf/Blind Multi Handicapped Association, Glenwood Mental Health Services, People First of Alabama, Alabama Coalition of Citizens with Disabilities, Mental Retardation 310 Agencies, Mental Health Consumers of Alabama, Alabama Alliance for the Mentally Ill, Alabama Council of Community Mental Health Boards, and five individuals with various developmental disabilities or their family member appointed by the chair of the committee.

The chair of the committee shall be the Commissioner of the Department of Mental Health and Mental Retardation. The committee shall provide for its own rules of procedure to conduct its business and shall meet at the call of the chair. The committee shall study all facets of the following:

(1) An examination of the nature and extent of developmental disabilities in Alabama to include prevalence and incidence rates.

(2) Identifying available resources and gaps in needed services for persons with development disabilities. Resources refers to both fiscal and human resources.

(3) Development of policy recommendations and legislative action to address the problems associated with developmental disabilities in Alabama. This list of recommendations and legislative action may include, but not be limited to, the following:

a. Development of criteria to assure that individuals with developmental disabilities in the State of Alabama and their

families are eligible for services provided by the Department of Mental Health and Mental Retardation, nonprofit organizations formed pursuant to law, and other state agencies and their contractors.

b. Coordination of services among state agencies in order to prevent duplication of services between agencies.

c. Policy recommendations regarding improved care and services to persons with developmental disabilities and their families as it relates to gaps in service networks.

d. Financial and social support to individuals with developmental disabilities and their families that reside in the State of Alabama.

Upon the request of the chair, the Department of Mental Health and Mental Retardation shall provide the clerical assistance necessary for the committee's work. The committee shall report its findings, conclusions, and recommendations to the Legislature not later than the 5th legislative day of the 1996 Regular Session, whereupon, the committee shall stand dissolved and discharged of any further duties and liabilities. Legislators appointed to the study committee shall be compensated at their regular per diem rate to be paid through funds provided by the Legislature. Notwithstanding the foregoing, no member shall receive additional legislative compensation or per diem when the Legislature is in session or if a member is being paid any other payments on the same dates for attendance of other state business. The total amount of funds expended under this resolution shall not exceed $5,000.

Approved July 13, 1995

Time: 3:00 P.M.

Act No. 95-332 H.J.R. 333 – Reps. Crigler, Box, Buskey, Kennedy, Dean, Gaston, Clark (W), Pringle, Turner, Mitchell

HOUSE JOINT RESOLUTION

COMMENDING DR. REGINA M. BENJAMIN FOR OUTSTANDING SERVICE.

WHEREAS, in 1990, Dr. Regina M. Benjamin opened her own medical practice in Bayou LaBatre, Alabama, where she felt her

presence could make a difference, and where she has devoted a major portion of her life in dedicated public service to others; and

WHEREAS, a native of Daphne, Alabama, Dr. Benjamin received her B.S. degree with honors from Xavier University, an M.D. degree from the University of Alabama, Birmingham, and an MBA from Tulane University; and

WHEREAS, Dr. Benjamin has garnered numerous honors and awards in recognition of her accomplishments, including Kellogg National Fellow, American Foundation for Negro Affairs Scholar; selection for Leadership Alabama 1991-92, and as first runner-up in Alabama's Junior Miss competition; and membership in Beta Beta Beta and Alpha Epsilon Delta, to name but a few; and

WHEREAS, she has also established an unparalleled record of leadership and involvement in numerous organizations, including the Mobile County Medical Society, Governor's Health Care Reform Task Force, Federation of State Licensing Boards, Mobile Chamber of Commerce, American Red Cross, Mobile 2000, and the United Way of Mobile, among countless others; and

WHEREAS, Dr. Regina M. Benjamin is truly a throw-back to a bygone era: a country doctor with a heart and a willingness to make house calls; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Dr. Regina M. Benjamin, who has played a vital role in the formation, growth, and progress of the community, and do furthermore direct that she receive a copy of this resolution, executed in admiration of her many outstanding accomplishments, and with sincere best wishes for every future happiness and success in life.

Approved July 13, 1995

Time: 3:01 P.M.

Act No. 95-333 H.J.R. 334 – Rep. Rogers (J)

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF LOUIS J. FRANCIS OF BEAUMONT, TEXAS.

WHEREAS, it is with deep personal sadness that the Legislature of Alabama records the death of Louis Joseph Francis of Beaumont, Texas, June 10, 1995, at the age of 55; and

WHEREAS, Louis Francis, the son of Mr. Aheart Francis and the late Mrs. Gertrude Francis, graduated from Blessed Sacrament High School in 1959, and was a devoted servant at Blessed Sacrament Catholic Church, where he served as altar boy; and

WHEREAS, Mr. Francis earned a well-deserved reputation for high standards of business and professional conduct, and served his country with honor while in the United States Navy before his medical retirement; he also provided a valuable service to area citizens while employed with the New York City Transit for 26 years; and

WHEREAS, Louis Francis was a faithful member of Arcacia Lodge Number 14 for several years, and was also an active member of Saint Mary's Parish, where his good deeds with the Bringing of Gifts earned him the respect and admiration of those countless individuals whose lives he touched through genuine care and concern; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of Louis Joseph Francis of Beaumont, Texas, and extend our heartfelt sympathy to his devoted wife, Mary Francis of Fairfield, Alabama; daughters Sheila, Jacqueline, and Elizabeth; stepdaughter, Pamela, and stepson, Tracy; brother, James Francis; father, Aheart Francis; as well as a host of other relatives and friends, for whom a copy of this resolution of sincere condolence shall be provided.

Approved July 13, 1995

Time: 3:02 P.M.

Act No. 95-334 H.J.R. 335 – Reps. Penry, McMillan

HOUSE JOINT RESOLUTION

DESIGNATING OCTOBER 1995 AS ALABAMA SEAFOOD MONTH.

WHEREAS, the commercial and recreational seafood industries of Alabama have a tremendous economic impact, providing approximately $300,000,000 each annually ($600,000,000 annually combined); and

WHEREAS, between 300 and 400 commercial vessels fish offshore in Alabama, consisting of about 2,500 commercial fishermen;

and 60 seafood processing plants statewide employ 1,600 to 2,000 people; and

WHEREAS, there are 33,000 persons licensed for recreational fishing in Alabama; and 50 or more charter boats average about 100 fishing trips per boat each year; and

WHEREAS, a significant economic benefit accrues to Alabama each year as a result of the 20 or more marine fishing tournaments held off Alabama's shores; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of the many benefits accruing to the state due to the commercial and residential seafood industries, the month of October 1995 is officially designated "Alabama Seafood Month."

BE IT FURTHER RESOLVED, that a copy of this resolution be sent as a token of our pride and appreciation to the Marine Resources Division of the Department of Conservation and Natural Resources.

Approved July 13, 1995

Time: 3:03 P.M.

Act No. 95-335 H.J.R. 336 – Reps. Pringle, Gaston, Crigler, Clark (W), Mitchell, Dean, Turner, Box, Kennedy, Buskey

HOUSE JOINT RESOLUTION

COMMENDING DAVID D. ROBERTS, JR., OF MOBILE, ALABAMA, FOR OUTSTANDING ACHIEVEMENT AND SERVICE TO THE MOBILE COMMUNITY.

WHEREAS, the Legislature of Alabama, in consensus of commendation, recognizes David D. Roberts, Jr., of Mobile, Alabama, for his outstanding achievement and service to the Mobile community; and

WHEREAS, David Roberts serves as Senior Vice President of Roberts Brothers, Inc., of Mobile, Alabama, the firm he founded in 1946, which, through his diligent hard work and dedication, has earned the distinction as one of Alabama's largest and most successful real estate firms; and

WHEREAS, Mr. Roberts, who earned both C.P.M. and G.R.I. designations, has served with distinction as President of the Alabama Association of Realtors, the Mobile County Board of

Realtors, and the Gulf Coast Chapter of the Institute of Real Estate Management, and was inducted into the Realtors National Honor Society of Omega Tau Rho, and acknowledged and admired as Alabama's Realtor of the year in 1986; and

WHEREAS, for the past 15 years David Roberts has contributed countless hours of service to the Boy Scouts of America, where his contributions have been of incalculable worth in service as Scoutmaster and as President of the Mobile Area Council, and, in tribute, he was awarded adult scout's highest honor, the Silver Beaver Award; and

WHEREAS, Mr. Roberts also was Director of the Mobile Better Business Bureau, received the M.O. Beale Scroll of Merit for civic achievement, and was an active member of Dauphin Way United Methodist Church in Mobile, Alabama, among numerous other worthy endeavors; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of his many accomplishments, and extraordinary service to the Mobile community, we hereby most highly commend David D. Roberts, Jr. of Mobile, Alabama, for whom a copy of this resolution shall be provided.

Approved July 13, 1995

Time: 3:04 P.M.

Act No. 95-336 H.J.R. 337 – Rep. Hammett

HOUSE JOINT RESOLUTION

RELATIVE TO MEETING DAYS.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That when the two houses adjourn Thursday, July 13, 1995, they adjourn to meet again on Monday, July 24, 1995, and when they adjourn on Monday, July 24, 1995, they adjourn to meet again on Tuesday, July 25, 1995, and when they adjourn on Tuesday, July 25, 1995, they adjourn to meet on Wednesday, July 26, 1995, and when they adjourn on Wednesday, July 26, 1995, they adjourn to meet again on Monday, July 31, 1995.

Approved July 13, 1995

Time: 3:06 P.M.

Act No. 95-337 S.J.R. 121 – Senator Little

SENATE JOINT RESOLUTION

COMMENDING MR. SHELTON HAWSEY FOR OUTSTANDING EFFORTS IN THE 4-H FORESTRY JUDGING CONTEST.

WHEREAS, it is with great pride and pleasure that the Alabama Legislature expresses especial appreciation to Mr. Shelton Hawsey of the Alabama Cooperative Extension Service, who was instrumental in helping establish and coordinate the Alabama 4-H Forestry Judging Contest; and

WHEREAS, the Alabama 4-H Forestry Judging Program, which began in 1984, and held its first contest in 1986, has as its main objectives to: Acquire information and understanding of practical forestry skills; develop appreciation of the need and importance of conserving natural resources as sources of products and services necessary for quality living; develop leadership talents; and to work toward achieving character development and effective citizenship; and

WHEREAS, due to the invaluable efforts of Mr. Hawsey, thousands of youths' minds throughout Alabama have become better informed about the benefits and values of forestry and its related natural resources, and this educational activity has served as a light to encourage many 4-H youth to enter a natural resource field as a career choice; and

WHEREAS, the selfless efforts of Mr. Hawsey have furthermore ensured that this activity will continue to serve as a catalyst to educate those Alabama extension agents who previously had no knowledge of the importance of our forests, and have promoted cooperation with other agencies to help people throughout the State of Alabama have a better quality of life; and

WHEREAS, the Alabama 4-H Forestry Teams have represented the State of Alabama very well over the years, winning 5 Forestry Knowledge Bowl Championships, and an impressive 5 National Championships, more than any other state in the country; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and paramount praise to Mr. Shelton Hawsey for his many noteworthy accomplishments and tremendous leadership with the Alabama 4-H Forestry Judging

Program, and do furthermore direct that a copy of this resolution be provided as evidence of our sincere appreciation.

Approved July 13, 1995

Time: 3:08 P.M.

Act No. 95-338 S.J.R. 122 – Senator Little

SENATE JOINT RESOLUTION

COMMENDING MR. TONY DOZIER FOR OUTSTANDING EFFORTS IN THE 4-H FORESTRY JUDGING CONTEST.

WHEREAS, it is with great pride and pleasure that the Alabama Legislature expresses especial appreciation to Mr. Tony Dozier of the Alabama Cooperative Extension Service, who was instrumental in helping establish and coordinate the Alabama 4-H Forestry Judging Contest; and

WHEREAS, the Alabama 4-H Forestry Judging Program, which began in 1984, and held its first contest in 1986, has as its main objectives to: Acquire information and understanding of practical forestry skills; develop appreciation of the need and importance of conserving natural resources as sources of products and services necessary for quality living; develop leadership talents; and to work toward achieving character development and effective citizenship; and

WHEREAS, due to the invaluable efforts of Mr. Dozier, thousands of youths' minds throughout Alabama have become better informed about the benefits and values of forestry and its related natural resources, and this educational activity has served as a light to encourage many 4-H youth to enter a natural resource field as a career choice; and

WHEREAS, the selfless efforts of Mr. Dozier have furthermore ensured that this activity will continue to serve as a catalyst to educate those Alabama extension agents who previously had no knowledge of the importance of our forests, and have promoted cooperation with other agencies to help people throughout the State of Alabama have a better quality of life; and

WHEREAS, the Alabama 4-H Forestry Teams have represented the State of Alabama very well over the years, winning 5 Forestry Knowledge Bowl Championships, and an impressive 5 National Championships, more than any other state in the country; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and paramount praise to Mr. Tony Dozier for his many noteworthy accomplishments and tremendous leadership with the Alabama 4-H Forestry Judging Program, and do furthermore direct that a copy of this resolution be provided as evidence of our sincere appreciation.

Approved July 13, 1995

Time: 3:09 P.M.

Act No. 95-339 S.J.R. 125 – Senators Dial, Little, and Clay

SENATE JOINT RESOLUTION

COMMENDING BOBBY D. JONES ON HIS RETIREMENT FROM TALLAPOOSA RIVER ELECTRIC COOPERATIVE.

WHEREAS, Bobby D. Jones recently retired on June 30, 1995, after 33 years of dedicated service to the Tallapoosa River Electric Cooperative where he served as General Manager; and

WHEREAS, Mr. Jones graduated from Auburn University in 1957, where he earned his B.S. degree in Agricultural Science, and, further, worked with continued perseverance toward his Master's degree in the field; and

WHEREAS, early in his career, Mr. Jones enjoyed successful tenures of service as a Line Chief of Fighter Control Systems in the United States Air Force, and as a Vocational Teacher at LaFayette High School; and

WHEREAS, he began his employment with Tallapoosa River Electric Cooperative in 1962, as Manager of Power Sales and Public Relations, and was promoted in 1984 to Manager and Assistant Manager of Electric Operations and Member Services, the position he has also served for more than a decade; now therefore;

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we wish Bobby D. Jones many happy years of retirement which he has both earned and deserves, and do further direct that a copy of this resolution be presented to him as a token of our sincere regard and esteem.

Approved July 13, 1995

Time: 3:10 P.M.

Act No. 95-340 S.J.R. 126 – Senator Myers

SENATE JOINT RESOLUTION

COMMENDING DAVID D. ROBERTS, JR., OF MOBILE, ALABAMA, FOR OUTSTANDING ACHIEVEMENT AND SERVICE TO THE MOBILE COMMUNITY.

WHEREAS, the Legislature of Alabama, in consensus of commendation, recognizes David D. Roberts, Jr., of Mobile, Alabama, for his outstanding achievement and service to the Mobile community; and

WHEREAS, David Roberts serves as Senior Vice President of Roberts Brothers, Inc., of Mobile, Alabama, the firm he founded in 1946, which, through his diligent hard work and dedication, has earned the distinction as one of Alabama's largest and most successful real estate firms; and

WHEREAS, Mr. Roberts, who earned both C.P.M. and G.R.I. designations, has served with distinction as President of the Alabama Association of Realtors, the Mobile County Board of Realtors, and the Gulf Coast Chapter of the Institute of Real Estate Management, and was inducted into the Realtors National Honor Society of Omega Tau Rho, and acknowledged and admired as Alabama's Realtor of the year in 1986; and

WHEREAS, for the past 15 years David Roberts has contributed countless hours of service to the Boy Scouts of America, where his contributions have been of incalculable worth in service as Scoutmaster and as President of the Mobile Area Council, and, in tribute, he was awarded adult scout's highest honor, the Silver Beaver Award; and

WHEREAS, Mr. Roberts also was Director of the Mobile Better Business Bureau, received the M.O. Beale Scroll of Merit for civic achievement, and was an active member of Dauphin Way United Methodist Church in Mobile, Alabama, among numerous other worthy endeavors; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of his many accomplishments, and extraordinary service to the Mobile community, we hereby most highly commend David D. Roberts, Jr. of Mobile, Alabama, for whom a copy of this resolution shall be provided.

Approved July 13, 1995

Time: 3:11 P.M.

Act No. 95-341 S.J.R. 129 – Senator Langford

SENATE JOINT RESOLUTION

CONGRATULATING MAHALA ASHLEY DICKERSON AS RECIPIENT OF THE MARGARET BRENT WOMEN LAWYERS OF ACHIEVEMENT AWARD.

WHEREAS, it is with highest commendation that the Alabama Legislature notes the selection of Mahala Ashley Dickerson, a native of Montgomery, Alabama, as one of five recipients of the American Bar Association's Margaret Brent Women Lawyers of Achievement Award on August 6, 1995, in Chicago, Illinois; and

WHEREAS, Mrs. Dickerson attended Mrs. White's School, graduated from Alabama State Laboratory School, Fisk University, and Howard University School of Law, and applied for 160 acres of federal homestead land in Anchorage, Alaska, where she still resides; and

WHEREAS, Mahala Ashley Dickerson, widely renowned and successful as a prominent author and practicing attorney, was the first black female attorney admitted to the Alabama Bar, and the first black attorney admitted to the Alaska Bar; and

WHEREAS, this most prestigious award recognizes and celebrates the accomplishments of outstanding women lawyers throughout the country, who have achieved professional excellence within their area of specialty, and who have actively paved the way to success for other women lawyers, and includes such outstanding women as First Lady Hillary Clinton, Anita Hill, and Barbara Jordan, to name a few; and

WHEREAS, Mahala Ashley Dickerson, a proud mother of triplet sons, is indeed a lady of exceptional stature, whose extensive legal career has been recognized and admired by her peers for extraordinary leadership and significant achievements; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of her outstanding career as a leader among women who personify excellence on the national, state, and local levels, we hereby most highly commend Mahala Ashley Dickerson on this momentous occasion, and do further direct that she receive a copy of this resolution, executed in sincere admiration and warm best wishes for continued future success.

Approved July 13, 1995

Time: 3:12 P.M.

Act No. 95-342 S.J.R. 130 – Senator Figures

SENATE JOINT RESOLUTION

HONORING MR. CHARLES PHARR FOR OUTSTANDING ACCOMPLISHMENTS.

WHEREAS, it is with great pride and pleasure that the Alabama Legislature recognizes Mr. Charles Pharr of Eight Mile, Alabama, who has been selected as the President of the Alabama Association of Housing and Redevelopment Authorities; and

WHEREAS, as Executive Director of the City of Prichard Housing Authority for 14 years, Charles Pharr is responsible for the over-all management and operation of this agency, and, through his expertise and guidance, the Prichard Housing Authority has dramatically increased the number of units, implemented a security patrol program, and has administered numerous programs to help lower and moderate income families realize the "American Dream of Homeownership," such as the Urban Development Action Grant Program (UDAG) and three Comprehensive Improvement Assistance Programs (CIAP); and

WHEREAS, Mr. Pharr, who earned a B. S. degree from the University of South Alabama, and an A. S. degree from Bishop State Junior College, has served in previous years as co-owner of Charles' Place, Inc., Material Handling Clerk and Technical Clerk for Scott Paper Company, and has a distinguished military career in the United States Army where he was an Ammunition Records Clerk; and

WHEREAS, a member of numerous professional and community organizations and boards, including the Prichard Chamber of Commerce, Mobile County Coalition Against Drugs, and the Alabama Public Housing Authorities Directors Association, Charles is a devoted husband to his wife, and father of five children; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and warmest congratulations to Mr. Charles Pharr of Eight Mile, Alabama, the President of the Alabama Association of Housing and Redevelopment Authorities, and do furthermore direct that a copy of this resolution of deepest appreciation shall be provided with best wishes for every future happiness and success.

Approved July 13, 1995

Time: 3:13 P.M.

Act No. 95-343 S.J.R. 132 – Senators Amari, Bedford, and Ghee

SENATE JOINT RESOLUTION

DESIGNATING S. 74 THE DEBORAH K. MILLER ACT.

WHEREAS, S. 74 of the 1995 Regular Legislative Session, which requires timely payments to contractors, subcontractors, and suppliers and interest on late payments, passed the Legislature June 22, 1995, and was delivered to the Governor; and

WHEREAS, Deborah K. Miller played a key role in lobbying for S. 74, working diligently and tirelessly for its passage; and

WHEREAS, due to Deborah's perseverance, persuasion, and negotiation skills, S. 74 worked its way smoothly from introduction to final passage; and

WHEREAS, it is only appropriate to acknowledge the person most dedicated and responsible for the successful passage of S. 74; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That upon its enactment, S. 74 of the 1995 Regular Session be designated and known as the Deborah K. Miller Act.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Deborah Miller as a token of our esteem and appreciation.

Approved July 13, 1995

Time: 3:14 P.M.

Act No. 95-344 S.J.R. 133 – Senators Butler, Freeman, Hale, Adams, Amari, Armistead, Bailey, Barron, Bedford, Biddle, Clay, Davidson, Denton, Dial, Dixon, Escott-Russell, Figures, Ghee, Hill, Langford, Lindsey, Lipscomb, Little, McClain, Mitchell, Mitchem, Myers, Poole, Roberts, Sanders, Smith, Smitherman, Steele, Waggoner, and Windom

SENATE JOINT RESOLUTION

URGING THE ALABAMA U. S. CONGRESSIONAL DELEGATION TO VIGOROUSLY FIGHT TO RESTORE FUNDING TO

MARSHALL SPACE FLIGHT CENTER IN HUNTSVILLE, ALABAMA.

WHEREAS, the Legislature of Alabama notes with paramount concern the actions of the Subcommittee on Veterans Affairs, Housing and Urban Development, and Independent Agencies of the Appropriations Committee of the United States House of Representatives on July 10, 1995, which adopted a budget that included recommendations that the Marshall Space Flight Center in Huntsville, Alabama, be closed; and

WHEREAS, the closing of this facility which provides a fundamental and integral part of our national space program, the method of space shuttle propulsion, would create a major threat to national defense and would impose a crippling blow to the scientific endeavors of the United States; and

WHEREAS, this legislative body further notes the devastating economic impact the closing of Marshall Space Flight Center would have on the City of Huntsville and North Alabama, the State of Alabama, and indeed the entire Southeast; and

WHEREAS, the Legislature is acutely cognizant of the financial effect of the closing of the center, whose annual budget exceeds two billion dollars and whose operations provide employment for tens of thousands of NASA personnel and employees of space-industry-related contractors and vendors assuming a conservative economic multiplier of seven, the closing of this vital complex would inflict an economic loss in excess of 15.4 billion dollars to our state; and

WHEREAS, this illogical and ill-conceived plan would result in the loss of sales tax, personal and corporate income tax, and ad valorem tax proceeds, would jeopardize efforts of the state and local governing bodies respecting all ranges of services and responsibilities including, but not limited to, education reform, health care, law enforcement, and industrial development; and

WHEREAS, the Legislature of Alabama, in unity and with utmost regard, adamantly objects to the closing of the Marshall Space Flight Center in Huntsville and tenders its unconditional support to our U. S. Congressional Delegation in efforts to continue and maintain appropriate funding to this efficient and essential federal installation, now therefore;

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Alabama U. S. Congressional Delegation is respectfully and resoundingly implored to vigorously and with all available means work for the complete restoration of funding to the Marshall Space Flight

Center in Huntsville, Alabama, and to vigilantly maintain future funding for this indispensable federal facility.

BE IT FURTHER RESOLVED, That a copy of this resolution be delivered immediately to each member of the Alabama U. S. Congressional Delegation, the Chair of the above referenced subcommittee, the Chair of the Appropriation Committee of the U. S. House of Representatives, and the Speaker of the U. S. House of Representatives so that each is apprised of the significance of this matter and the supreme necessity to continue the critical mission of the Marshall Space Flight Center.

Approved July 13, 1995

Time: 3:15 P.M.

Act No. 95-345 S.J.R. 134 – Senators Figures, Adams, Amari, Armistead, Bailey, Barron, Bedford, Biddle, Butler, Clay, Davidson, Denton, Dial, Dixon, Escott-Russell, Freeman, Ghee, Hale, Hill, Langford, Lindsey, Lipscomb, Little, McClain, Mitchell, Mitchem, Myers, Poole, Roberts, Sanders, Smith, Smitherman, Steele, Waggoner, and Windom

SENATE JOINT RESOLUTION

HONORING MS. OLA MAE SANDERS OF BAY MINETTE, ALABAMA, ON THE OCCASION OF HER 74TH BIRTHDAY, JULY 28, 1995.

WHEREAS, it is with great pride and warmest personal pleasure that the Alabama Legislature honors Ms. Ola Mae Sanders of Bay Minette, Alabama, on the occasion of her 74th birthday, July 28, 1995; and

WHEREAS, born July 28, 1921, Ms. Sanders is a well-respected member of the Bay Minette area, where she is affectionately known as an advisor and mayor of the community; and

WHEREAS, Ms. Sanders is indeed an exemplar of good citizenship serving as a member of FOCAL, Board Member of Mental Health, and past operator of the Nellie Clark Day Center; and

WHEREAS, on December 26, 1937, Ms. Sanders married Sam Sanders at the early age of 16, and they were blessed with 13

beautiful children; Sam, James, John, Charles, Lelia, Eloise, Dixie, Fannie, Douglas, Catherine (deceased), Thomas (deceased), Willie, and our dear friend and colleague, The Honorable Hank Sanders; and

WHEREAS, Ms. Sanders is a dedicated member of Union Baptist Church where she has served in numerous capacities including a choir member; she is indeed a warm and gracious lady, and it is an honor and a privilege to share in the celebration of her 74th birthday; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend warmest congratulations and paramount praise to Ms. Ola Mae Sanders on the occasion of her 74th birthday, July 28, 1995, and do furthermore direct that a copy of this resolution be provided with best wishes for many more happy birthdays.

Approved July 13, 1995

Time: 3:16 P.M.

Act No. 95-346 S.J.R. 135 – Senator Lindsey

SENATE JOINT RESOLUTION

DESIGNATING PORTIONS OF NORTH ALABAMA AS "THE TRAIL OF TEARS CORRIDOR OF NORTH ALABAMA" IN AN EFFORT TO COMMEMORATE THE MANY NATIVE AMERICANS WHO DIED AND/OR WERE REMOVED TO INDIAN TERRITORY DURING THE HISTORIC PERIOD KNOWN IN THE SOUTHEAST AS "THE INDIAN REMOVAL."

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the following land areas north and south of the Tennessee River, and the river itself, in North Alabama be included in a Corridor-type recognition of the various known routes of the official "Indian Removal" from Alabama, now be designated as "The Trail of Tears Corridor of North Alabama." The Tennessee River from east to west in Alabama; the J.C.S. Hood Route which encompasses Ross's Landing to Waterloo, Alabama. This route following U.S. Highway 72 (new and existing routes) from the state line at Bridgeport, Alabama to Scottsboro, Huntsville, and Athens to Florence and then on to Waterloo using Alabama 20 and Lauderdale 14; Highway 35 from east of Scottsboro, Alabama to Woodville; Highway 79 from four miles south of Guntersville to junction with Highway 72 at Scottsboro; I-565 through Huntsville to Highway 20 through Decatur then west to junction with U.S. 72 and continued

to the Mississippi line; also Benge's Route which encompasses the Fort Payne area to Albertville on Highway 75, then northwest to Guntersville on Highway 431 through Huntsville, then Road Number 53 to Ardmore; also from Fort Payne to Guntersville and Road 50 from Fort Payne and Highway 227 to Guntersville, Cathedral Caverns Boulevard Road Number 63 from Highways 431 to 72 through Grant; Interstate 65 from Highway 67 exit to Tennessee; the "Wetumpka Removal" via Moulton to Tuscumbia, then by boat down to the Tennessee River. Alabama 33 from Moulton to Courtland, then Alabama 20 and Alternate 72 to Tuscumbia passing through Leighton on old Highway 20; and finally, from Guntersville via Decatur, Courtland, Tuscumbia, and North Mississippi to Memphis. Alabama Road Numbers 69 and 67 from Guntersville to Decatur, then Alabama 20 and Alternate 72 to Tuscumbia passing through Leighton on old Highway 20. Then west to Mississippi on U.S. 72. Henceforth and forever "The Trail of Tears Corridor of North Alabama" shall include, but is not limited to, the above stated areas.

BE IT FURTHER RESOLVED, That the proper authorities are authorized to erect and maintain appropriate signs and markers to reflect this designation.

Approved July 13, 1995

Time: 3:17 P.M.

Act No. 95-347 H.J.R. 331 – Rep. Hamilton

HOUSE JOINT RESOLUTION

URGING THE ALABAMA CONGRESSIONAL DELEGATION TO PROPOSE AND SUPPORT LEGISLATION TO ENCOURAGE EMPLOYMENT IN THE HOME HEALTH CARE INDUSTRY IN RURAL AREAS.

WHEREAS, medical service providers are scarce in the rural areas of Alabama and other segments of the country; and

WHEREAS, many retired persons living in rural areas could and would be employed in the home health care industry if they were not penalized by current laws and regulations reducing Social Security benefits and imposing other disincentives due to their employment and earning of additional income; and

WHEREAS, the resulting overall benefit to the Federal Treasury due to reduced Medicaid and Medicare costs for inpatient nursing home services would offset any additional costs created by legislation encouraging such employment in rural areas; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we encourage the Alabama Congressional Delegation to propose and support federal legislation that would encourage employment of retired persons in the home health care industry in rural areas by eliminating the imposition of penalties or disincentives that result in reduced Social Security and other benefits.

RESOLVED FURTHER, That a copy of this resolution be sent to each member of the Alabama Delegation of the United States Congress.

Approved July 17, 1995

Time: 8:45 A.M.

Act No. 95-348 H. 2 – Rep. Dolbare

AN ACT

To alter or rearrange the boundary lines of the Town of Toxey, Choctaw County, Alabama, so as to include within the corporate limits of said Town all territory now within such corporate limits and also certain other territory contiguous thereto, in Choctaw County, Alabama.

Be It Enacted by the Legislature of Alabama:

Section 1. That boundary lines of the Town of Toxey, Choctaw County, Alabama, be, and the same as hereby altered, or rearranged so as to include all of the territory heretofore encompassed by the corporate limits of the Town of Toxey and in addition thereto the following described territory, to-wit:

The NW 1/4 and the N1/2 of the SW 1/4 of Section 29, Township 11 North, Range 3 West.

The E1/2 of the NE 1/4, the N 1/2 of the SE 1/4 and the North 1/2 of the SW 1/4 of Section 30, Township 11 North, Range 3 West.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved July 17, 1995

Time: 8:47 A.M.

Act No. 95-349 H. 35 – Rep. Venable

AN ACT

Relating to Elmore County; amending Section 1 of Act No. 91-539, H. 1094, 1991 Regular Session, relating to the compensation of the coroner of Elmore

County, to further provide for the compensation of the coroner and assistant coroners of Elmore County; and specifically repealing Act No. 83-691, H. 677 of the 1983 Regular Session, relating to the coroner's compensation.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act 91-539, H. 1094, 1991 Regular Session, is amended to read as follows:

"Section 1. Effective at the beginning of the next term of office, and all subsequent terms of office, the compensation of the coroner shall be set by resolution of the county commission. The salary of each assistant coroner also shall be set by resolution of the county commission. The compensation shall be in lieu of any other compensation paid to the Elmore County Coroner and assistant coroners by the county, except as provided in Section 2 of this act."

Section 2. Act No. 83-691, H. 677, 1983 Regular Session is specifically repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 17, 1995

Time: 8:48 A.M.

Act No. 95-350 H. 613 – Rep. Venable

AN ACT

Relating to Elmore County; amending Act No. 481, H. 1136, 1977 Regular Session, as amended, to provide further for the compensation of the county superintendent of education.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act No. 481, H. 1136, 1977 Regular Session, as amended, relating to the compensation of the Elmore County Superintendent of Education, is further amended to read as follows:

"Section 1. The County Superintendent of Education of Elmore County shall devote his or her entire time to the public school business of the county and shall receive as compensation a per annum salary in an amount to be established by the county board of education no later than March 31 in the year prior to the election of the superintendent. The board shall have discretion to grant expenses from time to time during the term of the superintendent. The compensation shall be payable from the public school funds of the county and shall be the total compensation."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 17, 1995

Time: 8:50 A.M.

Act No. 95-351 H. 699 – Rep. Parker (T)

AN ACT

Relating to Tuscaloosa County; to provide that the bailiffs for the Sixth Judicial Circuit of Alabama shall be authorized and allowed to participate in law enforcement minimum standard training; and to authorize leaves of absence for the bailiffs for the purposes provided for in this act.

Be It Enacted by the Legislature of Alabama:

Section 1. The bailiffs for each circuit and district judge for the Sixth Judicial Circuit of Alabama shall be authorized to participate in law enforcement minimum standard training in a course or courses duly certified for that purpose.

Section 2. Following law enforcement minimum standard training, the bailiffs for the Sixth Judicial Circuit may be deputized by the Sheriff of Tuscaloosa County and, by mutual agreement of both parties, work directly under the supervision and direction of the sheriff for all activities including, but not limited to, courtroom security, inmate custody, and inmate transportation.

Section 3. The bailiffs for the Sixth Judicial Circuit of Alabama shall be granted appropriate leaves of absence from their employment during the periods of time reasonably required for participation in the law enforcement minimum standard training courses.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are repealed.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 17, 1995

Time: 8:51 A.M.

Act No. 95-352 H. 573 – Reps. Moore, Flowers

AN ACT

Relating to the Twelfth Judicial Circuit of Alabama; authorizing the district attorney to establish a restitution recovery division within the Office of the District Attorney; to provide for collection and the enforcement of court orders in certain cases of nonpayment of restitution to victims of crime, court costs, fines, penalty payments, victim compensation assessments, and bond forfeitures; to provide a collection fee; to provide funding for the new restitution recovery division; and to provide for a Circuit Clerk's Fund to assist the clerk in the implementation of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply only in the Twelfth Judicial Circuit.

Section 2. The purpose of this act is to ensure that court ordered restitution to crime victims, victim compensation assessments, bail bond forfeitures, court costs required by law, fines levied against criminals for wrongful conduct, and other court ordered sums payable to the state or to the crime victims be paid in full and that cost of collection be borne by the person who is responsible for payment.

Section 3. The district attorney may establish a special division designated the "Restitution Recovery Division" for the administration, collection, and enforcement of court costs, fines, penalty payments, victim compensation assessments, bail bond forfeitures, restitution, or like payments in civil or criminal proceedings ordered by the court and payable to the state or to crime victims, or judgements entered which have not been otherwise vacated or judicial relief given from the operation of the order or judgement.

Section 4. The court, the clerk of the court, or a probation officer shall notify the district attorney in writing when any bail bond forfeitures, court costs, fines, penalty payments, crime victims' restitution, or victims' compensation assessments or like payments in any civil or criminal proceeding ordered by the court to be paid to the state or to crime victims have not been paid or are in default and the default has not been vacated. Upon written notification to the district attorney, the restitution recovery division of the district attorney's office may collect or enforce the collection of funds that have not been paid or that are in default which, under the direction of the district attorney, are appropriate to be processed. In no event shall a court, court clerk, or probation officer notify the district attorney in less than 90 days from the date the payments are due to be paid in full.

Section 5. After notification, as provided in Section 4, the district attorney may take all lawful steps necessary in order to require compliance with the court ordered payments, including any of the following: (1) a petition for revocation of probation; (2) a show cause petition for contempt of court; (3) any other civil or criminal proceedings which may be authorized by law or by rule of court. In addition, the district attorney may issue appropriate notices to inform the defendant of the noncompliance of the defendant and a warning of the penalty for noncompliance.

Section 6. After a matter has been transferred to the district attorney under Section 4, a court shall assess a collection fee of 30 percent of the funds due which shall be added to the amount of funds due. Any amount collected pursuant to this statute shall be distributed as follows:

(a) Seventy-five percent of the collection fee shall be distributed to the County District Attorney Fund to be expended for lawful purposes for the operation of the office of the district attorney. Funds provided to the district attorney by this act shall not reduce the amount payable to the district attorney under any local act or general act or reduce or affect the amounts of funding of the budget allocated by law. The funds shall be audited as all other state funds are audited.

(b) Twenty-five percent of the collection fee shall be distributed to the Circuit Clerk's Fund which shall be kept and maintained by the circuit clerk in a separate account to be used for the operation of the office of the clerk to include, but not be limited to, equipment purchases, education, and other office-related expenses including personnel. Funds retained by the circuit clerk shall not reduce the amount payable to the circuit clerk under any local act or general act or reduce or affect the amounts of funding of the budget of the circuit clerk allocated by the Administrative Office of Courts. The funds shall be audited as all other state funds are audited.

The remainder of the fees, fines, penalties, charges, court costs, and bail bond forfeitures after the deduction for collection shall be disbursed as provided by law on a monthly basis.

(c) This act shall not affect the right of the office of the district attorney to proceed with the prosecution of any violation as currently provided by law.

Section 7. There shall be an amnesty period of 60 days after the effective date of this act during which any person may voluntarily pay in full any duly assessed court costs, fines, victim compensation assessments, bail bond forfeitures, penalty payments,

restitution, or like payments in default. Commencing with the sixty-first day after the effective date of this act, the enforcement and collection procedures provided in this act shall be implemented.

Section 8. In addition to the provisions of this act, all court costs, fines, victim compensation assessments, bail bond forfeitures, and restitution, and other court ordered charges shall be considered a civil judgement which can be recorded and enforced in the manner provided by law.

Section 9. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 10. The provisions of this act are supplemental to any procedures for the enforcement and collection of any court ordered sums or forfeitures.

Section 11. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 17, 1995

Time: 8:52 A.M.

Act No. 95-353 H. 768 – Rep. Letson

AN ACT

Relating to Lawrence County; to provide for the service by the sheriff of subpoenas in the courts of the county.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) In the courts of Lawrence County a subpoena requiring the attendance of a witness in any civil, criminal, or other case or proceeding, or before the grand jury, may be served by the sheriff personally or by leaving a copy thereof at the place of residence of the witness or in the discretion of the sheriff, the sheriff may serve the same by placing a copy thereof in the United States mail, enclosing the subpoena in an envelope properly stamped and addressed to the person or witness to be served. Upon service by the sheriff upon any witness or person by any one of the foregoing methods, the sheriff shall immediately mark the process executed in the manner so served. If the subpoena so mailed is not delivered to the addressee, but is returned to the sheriff by the United States Post Office Department, then the sheriff shall immediately make a diligent effort to serve the

subpoena either personally or by leaving a copy thereof at the place of residence of the witness.

(b) Anything to the contrary notwithstanding in Section 1 (a) above, any judge of any of the courts of Lawrence County having jurisdiction of the proceeding or case may, on motion of any party or on the court's own motion, order any particular subpoena or the subpoenas in any case or proceeding to be served personally or by leaving a copy thereof at the place of residence of the witness or person or by United States registered or certified mail.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 17, 1995

Time: 9:00 A.M.

Act No. 95-354 H. 770 – Rep. White

AN ACT

Relating to Escambia County; providing that the offices of judge of probate and tax collector shall not be assessed for monetary loss resulting from the performance of official duties for errors or mistakes made in good faith, up to an annual maximum of $2,500 per office.

Be It Enacted by the Legislature of Alabama:

Section 1. The office of tax collector or office of Judge of Probate of Escambia County shall not be assessed any monetary loss, up to a total of two thousand five hundred dollars ($2,500) per office, per annum, arising or caused by error if the mistake or omission was caused without the personal knowledge of the officer, including loss arising from acceptance of worthless or forged checks, drafts, money orders, or other written orders for money or its equivalent.

Section 2. It shall be the duty of the tax collector or judge of probate to insure that the employees of the respective offices exercise due care in performing their required duties and make a diligent effort to correct the error, mistake, or omission. The respective officers shall make a good faith effort to collect the

amount subject to potential loss immediately upon becoming aware of the potential loss.

Section 3. This act shall not apply to any deliberate misuse or misappropriation of funds by the tax collector or judge of probate, or by any clerk, or any employee of the respective officials.

Section 4. No tax collector or judge of probate, or any official, any clerk, any employee of the respective officials shall be liable for worthless checks if the respective officers make a good faith effort to collect on the worthless checks.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 17, 1995

Time: 9:01 A.M.

Act No. 95-355 H. 827 – Rep. Collins

AN ACT

Relating to Lamar County; creating the Lamar County Economic Development Authority to promote economic growth and development of Lamar County and the municipalities of Beaverton, Detroit, Kennedy, Millport, Sulligent, and Vernon, and other like governing bodies.

Be It Enacted by the Legislature of Alabama:

Section 1. There is created the Lamar County Industrial Development Authority which shall be composed of thirteen members for the purpose of promoting economic growth and development and assisting the county commission and the city councils of Beaverton, Detroit, Kennedy, Millport, Sulligent, and Vernon, and other like governing bodies. All members of the authority shall be residents and qualified electors of Lamar County.

(1) Seven members of the Lamar County Industrial Development Authority shall be appointed as follows: The Lamar County Commission Chairman and the Mayors of Vernon, Sulligent, Millport, Kennedy, Beaverton, and Detroit shall each appoint one member of the authority. The seven members shall serve for terms concurrent with the terms of office of the appointing elected official. Successors to and vacancies in the seven positions shall be appointed in the same manner as the original seven

members are appointed. All members shall serve until their successors are appointed. Any person appointed to fill a vacancy shall serve only for the unexpired portion of the term unless reappointed to a full term as a successor.

(2) Six members of the authority shall be appointed by the Lamar County Economic Development Council. All appointments of successors to the six members shall be made by the council and all members shall serve until their successors are appointed. The members of the authority appointed by the Lamar County Economic Development Council shall serve pursuant to the bylaws of the authority. Vacancies in the positions of the six members shall be filled in the same manner as the original six members are appointed. Any person appointed to fill a vacancy shall serve only for the unexpired portion of the term unless reappointed in the manner prescribed for successors to the position.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 17, 1995

Time: 9:02 A.M.

Act No. 95-356 S. 20 – Senator Mitchell

AN ACT

To alter, rearrange, and extend the boundary lines and corporate limits of the City of Ozark in Dale County.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the City of Ozark in Dale County are altered, rearranged, and extended to include within the corporate limits of the city, in addition to the lands now included, all of the following territory:

EXHIBIT N

Beginning at a point on the present boundary line of the Corporate Limits of the City of Ozark, Dale County, Alabama at a point at the southwest corner of the SE1/4 of NE1/4, Sec. 26, T6N, R24E, Dale County, Alabama and running thence N 2 degrees 15'41"E 548.93 feet to a point that is 250 feet parallel to the south right-of-way of Alabama Highway No. 105; thence a chord bearing of N 62 degrees 59'39"E 702.50 feet of a line that is 250 feet parallel to the said south right-of-way; thence S 42 degrees 08'25"E 42.98 feet; thence N 57 degrees 32'13"E 135.00 feet; thence S 89

degrees 28'28"E 50.00 feet; thence N 29 degrees 52'05"E 191.04 feet to a point that is 250 feet parallel to the south right-of-way of Alabama Highway No. 105; thence a chord bearing of N 50 degrees 31'51"E 77.57 feet of a line that is 250 feet parallel to the said south right-of-way; thence N 50 degrees 31'59"E 99.91 feet; thence S 69 degrees 14'59"E 10.10 feet; thence N 2 degrees 50'28"W 10.93 feet to a point that is 250 feet parallel to the south right-of-way of Alabama Highway No. 105; thence a chord bearing of thence N 50 degrees 31'59"E 81.18 feet of a line that is 250 feet parallel to said right-of-way to its intersection with a line that is 250 feet parallel to the south right-of-way of Dale County No. 36; thence a chord bearing of S 39 degrees 07'12"E 349.39 feet of a line that is 250 feet parallel to the said south-right-of-way to its intersection with the section line between Sections 25 and 26; thence S 2 degrees 35'50"W 988.98 feet along said section line to the southwest corner of S1/2 of NW1/4, Sec. 25, T6N, R24E; thence S 89 degrees 23'33"E 1729.07 feet along the south line of S1/2 of NW1/4 to a point that is 250 feet parallel to the south right-of-way of Dale County No. 36; thence a chord bearing of S 57 degrees 40'41"E 1079.02 feet to the west forty line of NE1/4 of SW1/4, Sec. 25; thence N 2 degrees 31'36"E 567.54 feet to the southeast corner of the S1/2 of NW1/4; thence N 2 degrees 58'59"E 1324.86 feet along the east line of the S1/2 of NW1/4 to its northeast corner; thence N89 degrees 16'35"W 270.00 feet along its north line; thence N 1 degree 38'35"W 591.20 feet; thence N 89 degrees 16'35"W 200.00 feet; thence S 31 degrees 24'48"W 686.90 feet to the north line of the S1/2 of NW1/4; thence N 89 degrees 16'35"W 1371.44 feet along its north line to a point that is 250 feet parallel to the north right-of-way of Dale County No. 36; thence a chord bearing of N 39 degrees 07'12"W 433.50 feet of a line that is 250 feet parallel to said north right-of-way to its intersection with a line that is 250 feet parallel to the east right-of-way of Alabama Highway No. 105, thence a chord bearing of N 19 degrees 24'16"E 1050.80 feet of a line that is 250 feet parallel to said east right-of-way to its intersection with the south forty line of SW1/4 of SW1/4, Sec. 24, T6N, R24E; thence S 89 degrees 09'41"E 51.50 feet along said forty line; thence N 14 degrees 48'31"E 210.00 feet; thence N 89 degrees 14'56"W 53.09 feet to a point that is 250 feet parallel to the east right-of-way of Alabama Highway No. 105; thence a chord bearing of N 17 degrees 08'28"E 615.00 feet along a line that is 250 feet parallel to said east right-of-way; thence S 83 degrees 47'04"E 219.39 feet; thence N 16 degrees 34'00"E 480.00 feet; thence N 84 degrees 22'30"W 214.92 feet to a point that is 250 feet parallel to the said east right-of-way; thence a chord bearing of N 18 degrees 26'37"E 440.03 feet along a line that is 250 feet parallel to said east right-of-way; thence S 64 degrees 23'06"E 49.06 feet; thence N 28 degrees 56'19"E 409.57

feet; thence N 65 degrees 56'38"W 7.60 feet to a point that is 250 feet parallel to the said east right-of-way; thence a chord bearing of N 38 degrees 15'29"E 800.12 feet of a line that is 250 feet parallel to the said east right-of-way to its intersection with the north line of the NE1/4 of SW1/4, Sec. 24 and a point on the present corporate city limits of the City of Ozark; thence N 89 degrees 30'58"W 1642.65 feet along the said south forty line and the SW1/4 of NW1/4 to the section line of Sec. 24, T6N, R24E; thence N 89 degrees 14'59"W 1329.84 feet along south forty line of the SE1/4 of NE1/4, Sec. 23, T6N, R24E to the southwest corner of said forty; thence N 1 degree 45'25"E 2651.50 feet to the northwest corner of the NE1/4 of NE1/4, Sec. 23, T6N, R24E; thence N 88 degrees 50'46"W 662.12 feet to the southwest corner of the E1/2 of SW1/4 of SE1/4, Sec. 14, T6N, R24E; thence N 1 degree 19'20"E 1092.18 feet to a point 250 feet parallel to the south right-of-way of Johnson Road; thence a chord bearing of S 63 degrees 03'28"W 2176.43 feet of a line 250 feet parallel to said right-of-way; thence S 31 degrees 23'56"W 296.65 feet to the centerline of Morningview Drive; thence N 70 degrees 54'12"W 64.07 feet along the said centerline; thence S 16 degrees 16'11"W 147.02 feet; thence S 6 degrees 24'41"E 298.61 feet; thence S 70 degrees 39'25"W 153.01 feet; thence S 17 degrees 15'40"W 140.73 feet to the centerline of Elwood Road; thence N 70 degrees 19'16"W 22.73 feet along said centerline; thence S 16 degrees 40'13"W 146.37 feet; thence S 36 degrees 51'38"E 116.13 feet; thence S 70 degrees 01'39"E 965.53 feet to the north forty line of the NE1/4 of NW1/4, Sec. 23, T6N, R24E; thence S 89 degrees 02'54"E 704.92 feet to the southeast corner of said forty; thence S 1 degree 52'30"W 6638.31 feet to the southwest corner of the W1/2 of NE1/4, Sec. 26, T6N R24E; thence S 89 degrees 23'33"E 1317.47 feet along the south line of said eighty to the POINT OF BEGINNING. The herein described property being the N1/2 of NE1/4 and the SE1/4, Sec. 23; the S1/2 of NW1/4, Sec. 25 and the W1/2 of NE1/4 and NE1/4 of NE1/4, Sec. 26, T6N, R24E; and lying in and being a part of the SE1/4 of SW1/4 and the SW1/4 of SE1/4, Sec. 14; the NW1/4 of NW1/4 and the NE1/4 of NW1/4, Sec. 23; the NW1/4 of SW1/4, the NE1/4 of SW1/4 and the SW1/4 of SW1/4, Sec. 24; the NW1/4 of NW1/4, the NE1/4 of NW1/4 and the NE1/4 of SW1/4, Sec. 25; and the SE1/4 of NE1/4, Sec. 26, T6N, R24E, Dale County, Alabama and containing 626 acres more or less. This description was written from a digitized tax map and does not represent an actual survey and should not be used for individual property conveyance.

EXHIBIT O

A 4.8 acre more or less tract of land and being more particularly described as follows: Commence at the intersection of the

centerline of Alabama Highway No. 123 and the centerline of Post Oak Road and running thence N 31 degrees 31'29"E 240.19 feet along the centerline of Post Oak Road to the existing corporate limits and the point of beginning. Thence continue N 31 degrees 31'29"E 444.37 feet along the centerline of said road; thence S 49 degrees 37'16"E 607.50 feet; thence S 51 degrees 25'08"W 319.67 feet; thence N 36 degrees 20'28"W 193.02 feet; thence S 32 degrees 52'10"W 184.21 feet to a point on the existing corporate limits; thence N 47 degrees 15'24"W 314.37 feet along said corporate limits to the point of beginning. The herein described property lying in and being a part of the NW1/4 of NW1/4 and SW1/4 of NW1/4, Sec. 9, T6N, R24E, Dale County, Alabama. This description was written from a digitized tax map and does not represent an actual survey and should not be used for individual property conveyance.

Section 2. In accordance with Section 11-42-6(b) of the Code of Alabama 1975, a map showing what territory is proposed to be annexed to the City of Ozark is on file in the office of the Judge of Probate in Dale County, Alabama, and the map is open to the inspection of the public.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 17, 1995

Time: 8:46 A.M.

Act No. 95-357 S.J.R. 7 Senator Butler

SENATE JOINT RESOLUTION

COMMENDING THE LIBERTY MIDDLE SCHOOL LIONETTES DANCE TEAM, MADISON, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, the Legislature of Alabama extends heartiest congratulations to the Liberty Middle School Lionettes Dance Team, Madison, Alabama on their outstanding accomplishments since its inception in 1990; and

WHEREAS, last year, the Lionettes won the state competition, earning the honor of competing in the national competition in New Orleans, Louisiana; and

WHEREAS, after receiving superior ratings at dance camp in Tuscaloosa last summer, the Lionettes won first place in the

county dance competition to advance to the regionals at Athens State College; and

WHEREAS, the Lionettes won regionals in Athens and went to the state competition, winning first place honors to earn a berth in this year's national championship competition in Jacksonville, Florida; and

WHEREAS, greatly contributing to an outstanding team effort were team members, Emily Landingham, Kendall Newby, Julie Heiken, Allison Whitworth, Stefanie Bornas, Chrissy Brooks, Candice Carter, Amy Congo, Nancy Lord, Suzie Rockey, Liz Shook, Lauren Teague, Kelli Williams, Elizabeth Sanders, Heather Hornsby, Marie Elliot, Kimberly Cruz and Kendra Kelly; and

WHEREAS, under the skillful leadership of coaches, Debra McConnell and Susan Hamilton, these outstanding young ladies are indeed deserving of highest praise on their accomplishments; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, we hereby most highly commend the Liberty Middle School Lionettes Dance Team of Madison, Alabama, and direct that copies of this resolution be forwarded to Coaches Debra McConnell and Susan Hamilton for appropriate presentation and school display.

Approved July 17, 1995

Time: 9:15 A.M.

Act No. 95-358 S.J.R. 47 – Senator Butler

SENATE JOINT RESOLUTION

DESIGNATING THE WEEK OF MAY 14-20, 1995, AS "EMERGENCY MEDICAL SERVICES WEEK" IN ALABAMA.

WHEREAS, the Legislature of Alabama takes this opportunity to recognize the outstanding contributions made to the citizens of this state by our emergency medical services departments; and

WHEREAS, each year in Alabama, highway crashes are a major cause of death and disability; our emergency medical services departments answer our calls for help in these and all other emergencies; and

WHEREAS, our emergency medical services respond to our calls immediately with professionally trained and well-equipped

staff to ensure that our citizens receive prompt and appropriate care whenever and wherever it is needed; and

WHEREAS, emergency medical services specialists save hundreds of lives not only with their medical assistance, but also with their prevention messages; they remind our citizens about the dangers of drinking and driving, about the importance of wearing safety belts, about using safety belts for our children, about the necessity of motorcyclists wearing helmets, and about becoming alert pedestrians; and

WHEREAS, the emergency medical services specialists in Alabama, many of whom are volunteers, include the dispatchers who receive the emergency calls, the first responders and emergency medical technicians who arrive on the scene, and the nurses and physicians who staff the emergency rooms and trauma centers; and

WHEREAS, the Alabama Senate recognizes the importance of the citizens of Alabama knowing about our emergency medical services and acknowledging their accomplishments; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of the dedication of these faithful emergency medical services specialists, we do hereby designate the week of May 14-20, 1995, as "Emergency Medical Services Week" in the State of Alabama.

Approved July 17, 1995

Time: 9:16 A.M.

Act No. 95-359 **S.J.R. 51 – Senator Butler**

SENATE JOINT RESOLUTION

COMMENDING MRS. EVA THOMPSON OF MADISON COUNTY AS ALABAMA TEACHER OF THE YEAR.

WHEREAS, it is with great pleasure that the Alabama Legislature heartily congratulates and commends Mrs. Eva Thompson of Madison County as the 1995 Alabama Teacher of the Year, the most prestigious honor a public school educator can earn in this state; and

WHEREAS, Mrs. Thompson, who is a second grade teacher at Monrovia School, is a graduate of the University of Tennessee and has previous teaching experience in Knoxville, Tennessee, and at other schools in Madison County including West Madison and Big Cove; and

WHEREAS, Mrs. Thompson is known for her positive attitude and has a reputation as an innovator and motivator of children, earning the respect and admiration of her colleagues, students, and their parents; and

WHEREAS, as the recipient of this distinguished honor, Mrs. Eva Thompson is a credit to Monrovia School, the community, and this state; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation to Mrs. Eva Thompson, selected as Alabama Teacher of the Year, for her outstanding dedication and commitment to the youth of Alabama, and furthermore direct that a copy of this resolution be provided as evidence of our appreciation and esteem.

Approved July 17, 1995

Time: 9:17 A.M.

Act No. 95-360 S.J.R. 102 – Senators Butler and Barron

SENATE JOINT RESOLUTION

OPPOSING PATIENT SERVICE STANDARDS FOR THE REGULATION OF PHARMACY BY ANY ORGANIZATION OR AGENCY OTHER THAN THE ALABAMA STATE BOARD OF PHARMACY.

WHEREAS, the NABP is the national organization that supports various state boards of pharmacy in protecting the health of the public by regulating the pharmacy profession; and

WHEREAS, the NABP is keenly interested in pharmacy issues along with many other professional organizations and state boards of pharmacy; and

WHEREAS, we feel that the Alabama State Board of Pharmacy should be the organization responsible for the regulation of pharmacy; and

WHEREAS, third party payors have attempted to set a standard for pharmacists in recent contracts under the title of patient service standards, which requirement may be deleterious to the health of the public; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Legislature hereby opposes any attempt by an insurance company, third party

administrator payor, or any party other than the state boards of pharmacy with input from national, state, and local pharmacy professional organizations to set pharmacy standards.

BE IT FURTHER RESOLVED, that by this resolution the Legislature advises third party payors and others of the potential improprieties of practice standards and urge professional pharmacy organizations to do the same.

Approved July 17, 1995

Time: 9:18 A.M.

Act No. 95-361

S.J.R. 137 – Senators Dial, Adams, Amari, Armistead, Bailey, Barron, Bedford, Biddle, Butler, Clay, Davidson, Denton, Dixon, Escott-Russell, Figures, Freeman, Ghee, Hale, Hill, Langford, Lindsey, Lipscomb, Little, McClain, Mitchell, Mitchem, Myers, Poole, Roberts, Sanders, Smith, Smitherman, Steele, Waggoner, and Windom

SENATE JOINT RESOLUTION

HONORING MAJOR GENERAL JAMES E. MOORE ON THE OCCASION OF HIS RETIREMENT, JULY 7, 1995.

WHEREAS, it is with great pride and utmost personal pleasure that the Alabama Legislature honors Major General James E. Moore of Florence, Alabama, on the occasion of his retirement, July 7, 1995; and

WHEREAS, a native of Sheffield, Alabama, General Moore earned a B. S. degree from Florence State University, M. A. degree from Florence State University, Ed. S. degree from the University of North Alabama, and has an extensive military education including work at Fort Gordon, Georgia; Fort Leavenworth, Kansas; and the National Defense University; and

WHEREAS, General Moore has enjoyed a long and distinguished military career in the United States Army spanning 41 years, serving this country in numerous capacities and earning countless decorations and awards including a Meritorious Service Medal, Faithful Service Medal of Alabama, and Veterans Service Medal of Alabama, to name but a few; and

WHEREAS, General Moore is furthermore involved in numerous notable community, state, and national organizations such as the National Association of Secondary School Principals, Alabama Council of School Administrators, and the National Guard Association of Alabama, which he served as president from 1985-1986; and

WHEREAS, a dedicated member of First Baptist Church of Florence, General Moore is a loving husband to his wife, Mary Ruth Jackson, and father of two children, Mike and Kathy; and

WHEREAS, General Moore has made immeasurable contributions to his country, community, and this State, and he is well-deserving of this special recognition in honor of his many years of selfless service; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest commendation and warmest congratulations to Major General James E. Moore on the occasion of his retirement July 7, 1995, and do furthermore direct that a copy of this resolution be provided as evidence of our sincere appreciation with best wishes for a happy retirement and every future success.

Approved July 17, 1995

Time: 9:19 A.M.

Act No. 95-362 H. 61 – Rep. Clark (J)

AN ACT

Relating to Henry County; amending Act No. 93-386, H. 828, 1993 Regular Session, which provided for additional court costs, to provide further for those costs.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 2 of Act No. 93-386, H. 828, 1993 Regular Session, is amended to read as follows:

"Section 2. In addition to any and all court costs now or hereafter authorized to be collected, there shall be assessed an additional court cost of twenty-five dollars ($25) in all civil cases filed in the circuit court and in the district court of the county excluding cases filed in small claims court. There shall also be an additional court cost of twenty-five dollars ($25) assessed in all criminal and quasi-criminal cases brought in the district or circuit courts of Henry County."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 18, 1995

Time: 11:00 A.M.

Act No. 95-363 H. 415 – Rep. Dukes

AN ACT

Providing for a board of education for the City of Decatur, to be elected by the qualified electors of the city; providing that the members of the board shall be elected from defined school districts; providing for the terms of office, qualifications, and compensation of the members; prescribing procedures for electing members and for filling vacancies on the board; providing for board representation for persons not residing within a specific school district; providing certain immunity for board members; and providing for financial audits of the records of the board.

Be It Enacted by the Legislature of Alabama:

Section 1. There is established a school board for the City of Decatur, Alabama, which board shall be called "The Decatur City Board of Education." The members of the board shall be elected by vote of the qualified electors of the City of Decatur as hereinafter provided. The board shall be composed of five members, with one member of the board being elected from each of the school districts as defined in Section 2 of this act.

Section 2. The school districts from which the board members are to be elected shall be geographically identical to the districts from which the council members of the City of Decatur are elected. In the event the boundaries of a city council district should be changed for any reason, the boundaries of the corresponding school board district within the City of Decatur shall automatically change accordingly without the necessity of further action by the Legislature.

Section 3. A candidate for each place on the board of education shall be at least 21 years of age, a resident of the school board district which he or she seeks to represent on the board for at least 90 consecutive days prior to the deadline date for qualifying as a candidate, and shall not have a record of conviction for any crime involving moral turpitude. At the time of qualifying, each candidate for each place on the board shall pay a qualifying fee in an amount prescribed by the city council not later than six months prior to the qualifying deadline as provided by law. The qualification fee for the first elections to be held for the board created by this act, however, shall be twenty-five dollars ($25) for each

candidate. The dates for qualifying shall be the same as for mayor-council candidates.

Section 4. Elected school board members shall serve four-year terms with the elections and terms thereof coinciding with those of the members of the city council of Decatur. The elections for board members shall be held at the regular election for city council of Decatur after the effective date of this act. The elected board members shall serve from the date on which they are sworn into office until the swearing in of their successors following the next regularly scheduled city council and school board elections. Terms of office for the elected board members shall commence on the first Monday of October following their election. Any vacancies that may occur on the board, from time to time, shall be filled by remaining members of the board in the same manner as provided by law for filling vacancies on the city council. The chairmanship of the board shall be selected by vote of the board as a whole.

Section 5. In the event no candidate receives a majority of all of the votes cast for any one or more positions on the school board, the city council shall order a run-off election to be held separately or in conjunction with any scheduled City of Decatur run-off election, at which election the two candidates receiving the most votes for the office in the initial election shall be the only candidates. The candidate receiving the most votes in the run-off elections shall be declared as elected. In the event of a tie vote between the run-off candidates, the then serving city council shall decide the election by majority vote at a special meeting called for that purpose by the council's presiding officer.

Section 6. All members of the board created by this act shall represent the interests of any student of the city school system who is not otherwise represented by a certain district school board member as provided for in this act.

Section 7. The compensation for the members of the school board shall be three hundred dollars ($300) per month to be paid from city school system funds. The board may change this amount by majority vote thereof, which changes must be made not later than six months prior to the deadline for qualification of candidates for seats on the board. Members of the board shall be reimbursed for documented expenses associated with activities outside of the City of Decatur in the performance of their duties as board members. Thereafter, the compensation as set by the board, from time to time, shall be in effect for successor boards.

Section 8. The board of education shall have the financial records of the Decatur School System audited at least annually by an independent Certified Public Accountant firm licensed with an

office in the City of Decatur and the results of the audit being a matter of public record.

Section 9. Members of the board of education shall be immune from any civil liability whatsoever, be it in contract, in tort, or otherwise for any actions taken by members in their official capacity as members of the board and done within the line and scope of their authority as members thereof. The members of the board shall have the powers, authority, duties and responsibilities as are otherwise provided by law for members of boards of education as set forth in Chapter 11, commencing with Section 16-11-1, Title 16, Code of Alabama 1975.

Section 10. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 19, 1995

Time: 3:15 P.M.

Act No. 95-364 H. 732 – Reps. Guin, Hogan

AN ACT

Relating to Walker County; authorizing the district attorney to establish a "Municipal Restitution Recovery Division" within the Office of the District Attorney; providing for collection and enforcement of court orders in certain cases of nonpayment of restitution to victims of crime, court costs, fines, penalty payments, victim compensation assessments, and bond forfeitures in municipal courts; providing a collection fee; providing funding for the Municipal Restitution Recovery Division; and providing for a Circuit Clerk's Fund to assist the clerk in the implementation of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply only in Walker County.

Section 2. The purpose of this act is to ensure that court-ordered restitution to crime victims, victim compensation assessments, bail bond forfeitures, court costs required by law, fines levied against criminals for wrongful conduct, and other court-ordered sums ordered by a municipal court in Walker County and payable to the crime victims, or the municipal corporation, be paid in full and that costs of collection be borne by the person who is responsible for payment.

Section 3. The district attorney may, at his or her discretion, establish a special division designated the "Municipal Restitution Recovery Division" for the administration, collection, and enforcement of court costs, fines, penalty payments, victim

compensation assessments, bail bond forfeitures, restitution, or like payments in civil or criminal proceedings ordered by any municipal court. Also the payment to the state, to crime victims, or to the municipal corporation, of judgments entered which have not been otherwise vacated or judicial relief given from the operation of the order or judgment.

Section 4. Upon written notification to the district attorney, the Municipal Restitution Recovery Division of the district attorney's office may collect or enforce the collection of funds that have not been paid or that are in default which, under the direction of the district attorney, are appropriate to be processed.

Section 5. After notification, as provided in Section 4, the district attorney shall take all lawful steps necessary in order to require compliance with the court-ordered payments including any of the following: (1) A petition for revocation of probation; (2) a show cause petition for contempt of court; (3) any other civil or criminal proceedings which may be authorized by law or by rule of court. In addition, the district attorney may issue appropriate notices to inform the defendant of the noncompliance of the defendant and a warning of the penalty for noncompliance.

Section 6. After a matter has been transferred to the district attorney under Section 4, a court shall assess a collection fee of 40 percent of the funds due which shall be added to the amount of funds due. Any amount collected pursuant to this statute shall be distributed as follows:

(a) Sixty percent of the collection fee shall be distributed to the District Attorney's Solicitor's Fund to be expended for lawful purposes for the operation of the office of the district attorney. Funds provided to the district attorney by this act shall not reduce the amount payable to the district attorney under any local act or general act or reduce or affect the amounts of funding of the budget allocated by law. The funds shall be audited as all other state funds are audited.

(b) Twenty percent of the collection fee shall be distributed to the Circuit Clerk's Fund which shall be kept and maintained by the circuit clerk in a separate account to be used for the operation of the office of the circuit clerk to include, but not be limited to, equipment purchases, education, and other office-related expenses including personnel. Funds retained by the circuit clerk shall not reduce the amount payable to the circuit clerk under any local act or general act or reduce or affect the amounts of funding of the budget of the circuit clerk allocated by the Administrative Office of Courts. The funds shall be audited as all other state funds are audited.

(c) Twenty percent of the collection fee shall be distributed to the Law Enforcement Fund which shall be kept and maintained by the Sheriff of Walker County in a separate account to be used for the operation of the office of the sheriff to include, but not be limited to, equipment purchases, education, and other office-related expenses including personnel. Funds provided to the sheriff by this act shall not reduce the amount payable to the sheriff under any local act or general act or reduce or affect the amounts of funding of the budget allocated by law. The funds shall be audited as all other state funds are audited.

(d) The remainder of the fees, fines, penalties, charges, court costs, and bail bond forfeitures after the deduction for collection shall be disbursed as provided by law on a monthly basis.

(e) No paragraph of this section shall preclude the parties to the transaction from contracting other settlement agreements but in no situation shall the collection fee exceed 40 percent.

Section 7. This act shall not affect the right of the Office of the District Attorney to proceed with the prosecution of any violation as currently provided by law.

Section 8. There shall be an amnesty period of 60 days after the effective date of this act during which any person may voluntarily pay in full any duly assessed court costs, fines, victim compensation assessments, bail bond forfeitures, penalty payments, restitution, or like payments in default. Commencing with the 61st day after the effective date of this act, the enforcement and collection procedures provided in this act shall be implemented.

Section 9. In addition to the provisions of this act, all court costs, fines, victim compensation assessments, bail bond forfeitures, and restitution, and other court-ordered charges shall be considered a civil judgment which can be recorded and enforced in the manner provided by law.

The district attorney may apply to the appropriate state court within the jurisdiction for certification of court-ordered charges as a valid civil judgment which can be recorded and enforced in the manner provided by law.

Section 10. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 11. The provisions of this act are supplemental to any procedures for the enforcement and collection of any court-ordered sums or forfeitures.

Section 12. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 19, 1995

Time: 3:20 P.M.

Act No. 95-365 H. 849 – Rep. Newton (C)

AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the Town of Georgiana in Butler County.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the Town of Georgiana in Butler County are hereby altered, rearranged, and extended to include within the corporate limits of the town, in addition to the lands now included, all of the following territory, located in Butler County, to-wit:

The East One-half (E1/2 of Section twenty (S20), Township EIGHT North (T8N), Range THIRTEEN East (R13E).

The West One-half (W1/2) and all that part of the East One-half (E1/2) lying West and North of the existing corporate limit line of Georgiana, Alabama, of Section TWENTY ONE (S21), Township EIGHT North (T8N), Range THIRTEEN East (R13E).

All that part of the North One-half (N1/2) of Sections TWENTY TWO (S22), and TWENTY THREE (S23) which lie south of the Section lines and north of the existing corporate limit line of Georgiana, Alabama, in Township EIGHT North (T8N), Range THIRTEEN East (R13E).

The Georgiana Industrial Park described as follows: Commence at a concrete monument which is known as the Northeast corner of the Northwest Quarter of the Southeast Quarter, Section TWENTY THREE, Township EIGHT North, Range THIRTEEN East, run thence South 00° 12' West along the forty line for 1502.0 feet to an iron pin on the North right-of-way line of Alabama Highway No. 106, run thence Southwesterly along said right-of-way for the following bearings and distances: South 79° 15' West for 45.8 feet, thence South 77° 01' West for 49.4 feet, thence South 74° 53' West for 51.3 feet, thence South 72° 38' West for 48.8 feet, thence South 70° 40' West for 49.2 feet, thence South 68° 38' West for 46.4 feet, thence South 66° 20' West for 44.3 feet, thence South 63° 58' West for 43.5 feet, thence South 61° 50' West

for 42.2 feet, thence South 59° 58' West for 45.1 feet, thence South 58° 35' West for 106.7 feet, thence South 58° 17' West for 117.3 feet, thence South 58° 06' West for 104.3 feet, thence South 58° 04' West for 419.9 feet, thence South 57° 59' West for 253.7 feet, thence South 58° 13' West for 47.4 feet to an iron pin on the right-of-way line; thence leaving right-of-way North 00° 35' East for 710.0 feet to an iron pin on the Southeast right-of-way line of U. S. Highway No. 31, run thence along said right-of-way for the following bearings and distances: North 25° 00' East for 23.4 feet, thence North 27° 16' East for 50.7 feet, thence North 29° 11' East for 92.2 feet, thence North 29° 49' East for 131.8 feet, thence North 31° 17' East for 145.3 feet, thence North 32° 42' East for 142.0 feet, thence North 33° 59' East for 135.4 feet, thence North 36° 16' East for 103.4 feet, thence North 37° 12' East for 108.7 feet, thence North 38° 24' East for 175.9 feet, thence North 39° 09' East for 165.7 feet, thence North 41° 22' East for 124.8 feet, thence North 42° 16' East for 167.3 feet, thence North 43° 58' East for 142.2 feet, thence North 46° 10' East for 126.4 feet, thence North 48° 03' East for 78.1 feet to an iron on said right-of-way line, thence leaving right-of-way and along forty line South 89° 10' East for 160.0 feet to the point of beginning, said parcel being that part of the Northwest Quarter of the Southeast Quarter lying South and East of the right-of-way of U. S. Highway No. 31, and also that part of the Southwest Quarter of the Southeast Quarter lying North of the right-of-way of Alabama Highway No. 31, all being in Section TWENTY THREE, township EIGHT North, Range THIRTEEN East, Butler County, Alabama and containing 37.31 acres, more or less.

Section 2. In accordance with the provisions of Section 11-42-6(b), Code of Alabama 1975, as amended, a map showing what territory is proposed to be annexed to the Town of Georgiana is on file in the office of the Judge of Probate of Butler County, Alabama, and such map is open to the inspection of the public.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 19, 1995

Time: 3:21 P.M.

Act No. 95-366 H. 101 – Rep. Smith

AN ACT

Relating to Chilton County; providing for an additional expense allowance and salary for the sheriff, and for the expiration of the expense allowance.

Be It Enacted by the Legislature of Alabama:

Section 1. Commencing on the first day of the month immediately following the effective date of this act, the Sheriff of Chilton County shall be entitled to an additional expense allowance in the amount of fifteen thousand dollars ($15,000) per annum, which shall be in addition to all other expense allowances, compensation, or salary provided by law. This expense allowance shall be payable in equal monthly installments from the general fund of the county.

Section 2. Beginning with the expiration of the term of the incumbent Sheriff of Chilton County, the annual salary for the Sheriff of Chilton County shall be increased by fifteen thousand dollars ($15,000) per annum, payable in equal monthly installments from the general fund of the county and at that time, Section 1 shall become null and void.

Section 3. The expense allowance and salary increase provided in this act shall be inoperative if the sheriff receives an additional expense allowance or salary increase pursuant to general law during the current term of office or effective upon the beginning of the next term of office which is equal to or greater than the amount provided by this act.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, except as otherwise herein provided.

Approved July 19, 1995

Time: 3:22 P.M.

Act No. 95-367 H. 484 – Reps. Penry, McMillan

AN ACT

Relating to the status of mayor in a Class 8 municipality with a mayor-council form of government; to provide that a Class 8 municipality may provide for a referendum at which the registered voters of the city (town) may vote on the issue of whether, after the 1996 municipal election, the office of mayor will be a full-time position; to establish the appropriate procedures for the referendum; to further provide for a subsequent referendum concerning the duties of a mayor in such Class 8 municipality in the event that the governing body subsequently determines that the status of mayor need not be full-time.

Be It Enacted by the Legislature of Alabama:

Section 1. The governing body of a Class 8 municipality may, by resolution adopted within 60 days after the date on which the United States Justice Department determines not to interpose objection to this act, provide for a referendum of the registered voters of the city or town to determine public opinion as to whether the candidate elected mayor at the 1996 municipal election, and thereafter, shall serve in a full-time capacity. Except as otherwise provided herein, any referendum conducted pursuant to this act shall comply with general municipal election laws for special elections.

Section 2. At the referendum, the proposition to be submitted shall be printed in plain prominent type on ballots separate and distinct from ballots used for any other office or question and shall read substantially as follows:

"Check one of the following:

"(1) Do you favor the Office of Mayor of the City (Town) of _____ being a full-time position with the City (Town) of _____ for the person elected at the 1996 municipal election and thereafter?

"Yes _____ No _____."

The voter shall mark the ballot with a cross mark (x) after the proposition which expresses his or her choice. If voting machines are used at any voting place in the referendum, the proposition may, at the discretion of the election commission or other body or official having charge of the conduct of municipal elections, be submitted as separate propositions on the voting machines.

Section 3. If a majority of voters vote in favor of the mayor of the Class 8 municipality being full-time, the governing body of the city may provide, by ordinance, that the mayor of the Class 8 municipality shall serve in a full-time capacity, until such time, if any, that the municipality subsequently holds a referendum on the issue as provided by Section 6 of this act.

Section 4. Upon certification of the results of the referendum by the election official, the governing body of the municipality shall, at least six months prior to the next regularly scheduled election, establish the salary of the mayor as provided by general law.

Section 5. In the event the mayor is serving on a full-time basis and a vacancy occurs in the office of mayor, the city council may provide, by resolution, that the officer who fills the vacancy

would not be required to serve on a full-time basis for the remainder of that term.

Section 6. In the event that the governing body of any Class 8 municipality, which has adopted an ordinance pursuant to Section 3 of this act, shall later determine that it would be in the best interests of the municipality that a subsequent referendum be held to reconsider the status of the mayor as a part-time position in such city (town), then the governing body may, by resolution, provide for a subsequent referendum upon the issue and, if so provided, the ballot shall be substantially as set forth in Section 2 of this act, except that the question presented shall read substantially as follows:

"Check one of the following:

"(1) Do you favor that the office of mayor of the City (Town) of _____ shall no longer be required to be a full-time position?

"Yes _____ No _____."

If a majority of the voters voting cast their votes in favor of no longer requiring the position of mayor to be full time, then the governing body of the municipality may adopt an ordinance in effect repealing the previous ordinance requiring the mayor to serve in a full-time position, and the ordinance shall become effective when the next mayor takes office. The votes shall be canvassed and certified in the same manner as provided by Section 4 of this act and the governing body shall establish the salary of the mayor at least six months prior to the next regularly scheduled municipal election.

Section 7. All laws and parts of laws, general, local, or special, relating to or affecting the Class 8 municipality, its powers, duties, functions, and property, in force when this act takes effect, are hereby continued in effect, and this act shall be supplemental to all laws relating to the exercise of powers, functions, and duties of the mayor of the Class 8 municipality.

Section 8. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 9. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, except as otherwise provided by this act.

Approved July 19, 1995

Time: 3:25 P.M.

Act No. 95-368 H. 674 – Rep. Hamilton

AN ACT

Relating to Lauderdale County; to amend Section 3 of Act No. 586, H. 717 of the 1965 Regular Session (Acts 1965, p. 1095) creating a civil service board of appeals, to provide for membership of the civil service board of appeals; and to specifically repeal Act No. 1695, H. 2263 of the 1971 Regular Session (Acts 1971, p. 2852), creating a civil service board in counties having a population of not less than 65,500 nor more than 75,200 according to the most recent or any subsequent federal decennial census.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 3 of Act No. 586, H. 717 of the 1965 Regular Session (Acts 1965, p. 1095), is amended to read as follows:

"Section 3. There shall be created a civil service board of appeals for the purpose of regulating the tenure of employment of certain deputies in the office of the sheriff. The Lauderdale County Commission shall appoint a civil service board of appeals as it relates to the Sheriff of Lauderdale County, Alabama, and the Sheriff's Department of Lauderdale County, Alabama. The civil service board shall be composed of five individuals appointed by the Lauderdale County Commission. The county commission shall attempt to appoint those persons who are highly respected for their fairness, honesty, and general good character. Initially, two members shall be appointed for a three-year term, two members for a two-year term, and one member for a one-year term. Thereafter, all terms shall be for a period of three years.

"No person shall be eligible to appointment who holds any civil office of profit under the federal, state, county, or city government, or is a candidate for such office. All appointed members shall be bona fide residents and qualified electors of the county, and shall be persons of recognized character and ability. Vacancies on the board shall be filled for unexpired terms in the same manner as original appointments. Appointed members of the board shall be entitled to receive ten dollars ($10) for each day actually served in transacting the business of the board, but no member shall in any case receive more than two hundred fifty dollars ($250) in any one year, sums shall be paid out of the general fund of the county."

Section 2. Act No. 1695, H. 2263 of the 1971 Regular Session (Acts 1971, p. 2852), creating a civil service board in counties having a certain population is specifically repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 20, 1995

Time: 8:30 A.M.

Act No. 95-369 H. 826 – Rep. Hill

AN ACT

Relating to Shelby County; providing for an additional expense allowance for the tax assessor and tax collector; and providing an expiration date.

Be It Enacted by the Legislature of Alabama:

Section 1. The tax assessor and tax collector of Shelby County shall be entitled to receive an additional expense allowance in the amount of five hundred dollars ($500) per month to be paid out of the county general fund. This expense allowance shall be in addition to any and all other compensation, salary, and expense allowances provided for by law.

Section 2. The expense allowances provided by this act shall expire at the end of the present term of the incumbent tax assessor and tax collector.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 20, 1995

Time: 8:31 A.M.

Act No. 95-370 H. 828 – Rep. Parker (P)

AN ACT

Relating to Morgan County; providing for the county commission to reimburse the office of license commissioner for any monetary loss resulting from the performance of official duties for errors, mistakes, or omissions made in good faith, not to exceed a certain maximum per annum; and providing that the funds shall be payable from the county general fund.

Be It Enacted by the Legislature of Alabama:

Section 1. The Morgan County Commission shall reimburse the office of license commissioner from the general fund of the county the amount of any monetary loss in an amount not to exceed a total of two thousand five hundred dollars ($2,500) per

annum, arising or caused by error, mistake, or omission, including any loss arising from acceptance of drafts, money orders, or other written orders for money or its equivalent or any loss from missing tags, decals, or licenses if the error, mistake, or omission was caused without his or her personal knowledge.

Section 2. The license commissioner shall use his or her best efforts to assure that his or her employees exercise due care in performing their duties, make a diligent effort to correct any error, mistake, or omission, and collect the amount subject to potential loss immediately upon becoming aware of the potential loss. This act shall not apply to any deliberate misuse or misappropriation of funds by the license commissioner or any clerk or employee of the office of the license commissioner.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 20, 1995

Time: 8:32 A.M.

Act No. 95-371 H. 557 – Rep. Hill

AN ACT

Relating to Shelby County; amending Act No. 81-461, H. 933, 1981 Regular Session, to provide further for the collection of the existing sales and use tax.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 4 of Act No. 81-461, H. 933, 1981 Regular Session, relating to Shelby County, is amended to read as follows:

"Section 4. Payment of Taxes Herein Levied; Reports by Taxpayers. The sales taxes levied in Section 2 hereof shall be due and payable in monthly installments on or before the twentieth day of the month next succeeding the month in which the tax accrues; and the use taxes levied in Section 3 hereof shall be due and payable quarterly on or before the twentieth day of the month next succeeding each quarterly period during which the storage, use, or other consumption of the tangible personal property became taxable hereunder, each such quarterly period to end on

the last day of each of the months of March, June, September, and December. The sales taxes levied in Section 2 of this act shall be paid to and collected by the State Department of Revenue, or as otherwise provided by resolution of the Shelby County Commission, at the same time as and along with the payment and collection of the state sales tax; and the use taxes levied in Section 3 of this act shall be paid to and collected by the State Department of Revenue, or as otherwise provided by resolution of the Shelby County Commission, at the same time as and along with the payment and collection of the state use tax; provided, however, that any taxpayer that possessed a direct pay permit issued by the State Department of Revenue prior to the effective date of this amendment shall continue to pay use taxes to the county in which an item is ultimately used regardless of any storage of that item in Shelby County. Except as otherwise provided by resolution of the Shelby County Commission, on or prior to the due dates of the taxes herein levied, each person subject to such taxes shall file with the State Department of Revenue a report or return in such form as may be prescribed by the department, setting forth, with respect to all sales and business that are required to be used as a measure of the sales taxes herein levied, a correct statement of the gross proceeds of all such taxes and the gross receipts of all such business, and setting forth, with respect to the use taxes levied herein the total sales price of all property, the use, storage, or other consumption of which became subject to the taxes during the then preceding quarterly period. The report shall include all other items of information pertinent to said taxes and the amount thereof as the State Department of Revenue may require, or as otherwise provided by resolution of the Shelby County Commission. Any person subject to the sales taxes levied herein may defer reporting credit sales until after their collection, and in the event he or she so defers reporting them, he or she shall thereafter include in each monthly report all credit collections made during the month preceding and shall pay the taxes due thereon at the time of filing such report. All reports or returns filed with the State Department of Revenue or returns filed with the State Department of Revenue under this section shall be available for inspection by the governing body of the county or its designated agent at reasonable times during business hours."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 20, 1995

Time: 8:33 A.M.

Act No. 95-372 H. 871 – Reps. Allen, Fuller, Wren

AN ACT

To pledge and appropriate such amounts as may be necessary to pay and to redeem prior to their respective maturities the principal of and the interest on any issue of bonds and refunding bonds of the Alabama Incentives Finance Authority from the revenues retained by the state of Alabama from the in-lieu-of-taxes payments made by the Tennessee Valley Authority following the distribution of a portion of such payments to certain counties in the State of Alabama as provided in Section 40-28-2 of the Code of Alabama 1975, and the pledge and appropriation of TVA payments pursuant to Section 41-9-783 of the Code of Alabama 1975, for the Tennessee Valley Exhibit Commission Bonds outstanding on the effective date of this Act.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby irrevocably pledged and appropriated such amounts as may be necessary to pay and to redeem prior to their respective maturities the principal of and the interest on any issue of bonds or to pay the principal of and the interest on any refunding bonds issued to refund any revenue bonds that shall be issued by the Alabama Incentives Finance Authority from the revenues retained by the state of Alabama from the in-lieu-of-taxes payments made by the Tennessee Valley Authority (which are herein called the "TVA payments") following the distribution of a portion of such TVA payments to certain counties in the State of Alabama as provided in Section 40-28-2 of the Code of Alabama 1975, and following the pledge and appropriation of TVA payments pursuant to Section 41-9-783 of the Code of Alabama 1975, for the Tennessee Valley Exhibit Commission Bonds outstanding on the effective date of this Act.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are hereby repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved July 20, 1995

Time: 4:15 P.M.

Act No. 95-373 H. 872 – Reps. Fuller, Allen, Wren

AN ACT

To authorize the incorporation of Alabama Incentives Financing Authority; to provide for its governance and to confer upon it certain powers; to grant to the authority the power to issue or guarantee not exceeding $150,000,000 principal amount bonds for the purpose of financing industrial and research facilities and training facilities and paying management fees referable to any such training facilities; to appropriate to the authority for payment of debt service on debt obligations of the authority and related ongoing financing costs and other obligations of the authority so much as may be necessary of the revenues retained by the state from the in-lieu-of-taxes payments made by The Tennessee Valley Authority; to authorize the pledge by the authority of the funds so appropriated and certain other funds available to the authority for payment of its obligations; to provide for the manner of ownership, operation, leasing, and disposition of facilities directly or indirectly financed by the authority; to provide for the manner of issuing and securing its obligations and providing for the incontestability thereof under certain conditions; to grant tax exemptions respecting the bonds of the authority, the interest thereon, and the authority's property and operations and other exemptions; to exempt the authority from the jurisdiction of certain state agencies and from competitive bid laws; and to provide for the dissolution of the authority.

Be It Enacted by the Legislature of Alabama:

Section 1. The Legislature finds and declares the following: That the State of Alabama, acting in its own name and through various public corporations, has made substantial financial contractual commitments for incentives to industries agreeing to locate or expand their operations in Alabama: that the creation of a state-level agency with power to fund the commitments is desirable and in the public interest; that by the passage of this act it is the intention to provide for the creation of Alabama Incentives Financing Authority with broad powers to meet existing commitments made by the state to industries committing to locate or expand in the state; and that it is necessary and in the public interest that the Authority pledge for payment of its obligations the funds appropriated to the authority in order to enable it to fund existing commitments and to carry out functions that are essential to the public welfare. This act shall be liberally construed in accordance with its remedial purposes.

Section 2. (a) The following words and phrases used in this act, and others evidently intended as the equivalent thereof, shall, in the absence of clear implication herein otherwise, be given the following respective interpretations herein:

(1) APPROPRIATED FUNDS. Net TVA payments to the extent such payments are pledged and appropriated to the authority pursuant to Section 11.

(2) APPROVED COMPANY. Any corporation, partnership, trust, or other form of business entity that has sought designation

as an approved company by the State Industrial Development Authority pursuant to Section 41-10-44.4, Code of Alabama 1975, prior to the effective date of this act.

(3) AUTHORITY. The public corporation organized pursuant to this act.

(4) AUTHORITY GUARANTY. An agreement of the authority pursuant to which the payment of debt service referable to bonds, notes or other evidences of indebtedness of a development agency is guaranteed by the authority.

(5) AUTHORITY OBLIGATIONS. Bonds of the authority and authority guaranties.

(6) AUTHORITY-GUARANTEED OBLIGATIONS. Bonds, notes, or other evidences of indebtedness of a development agency that are issued solely for the purpose in financing a project and that are guaranteed, in whole or in part, by an authority guaranty.

(7) BONDS. Bonds of the authority issued under this act.

(8) DEBT SERVICE. The principal of and interest (and premium, if any) on an obligation (including, without limitation, any principal required to be paid prior to its stated maturity) and any ongoing trustee or paying agent fees or fees of providers of credit enhancement or liquidity facilities.

(9) DEVELOPMENT AGENCY. A county, municipality, or industrial development authority organized under Chapter 92A of Title 11 of the Code of Alabama 1975, as amended; an industrial development board organized under Article 4, Chapter 54 of Title 11 of the Code of Alabama 1975, as amended, or the State Industrial Development Authority.

(10) DIRECTORS. The board of directors of the Alabama Incentives Financing Authority.

(11) ELIGIBLE INVESTMENTS. Any investment in which trust funds of either the teachers' retirement system of Alabama or the employees' retirement system of Alabama are authorized to be invested.

(12) FINANCED PROPERTY. All property whether real, personal, or mixed, the costs of which were or are to be paid or reimbursed in whole or in part with the proceeds of bonds of the authority or the proceeds of authority-guaranteed obligations.

(13) FINANCING AGREEMENT. Any loan, lease, agreement, financing agreement, credit agreement, security agreement, mortgage, indenture, guaranty agreement, or other type of agreement entered into by the authority in connection with the incurring of authority obligations.

(14) HEREIN, HEREBY, HEREUNDER, HEREOF, AND OTHER EQUIVALENT WORDS. Refer to this act as an entirety and not solely to the particular section or portion thereof in which any such word is used.

(15) INDUSTRIAL OR RESEARCH ENTERPRISE. Any trade or business described in 1987 Standard Industrial Classification Major Groups 20 to 39, inclusive, 50 and 51, Industrial Group Number 737, and Industry Numbers 8731, 8733, and 8734, as set forth in the Standard Industrial Classification Manual published by the United States Government Office of Management and Budget, and includes such trades and businesses as may be hereafter reclassified in any subsequent publication of the Standard Industrial Classification Manual.

(16) NET TVA PAYMENTS. With respect to any fiscal year of the state, the in-lieu-of-taxes payments made by The Tennessee Valley Authority to and retained by the state during such fiscal year after distributions made pursuant to Section 40-28-2 of the Code of Alabama and after compliance with the provisions of Section 41-9-783 of the Code of Alabama.

(17) PERSON. Unless limited to a natural person by the context in which it is used, includes a private firm, a private association, a public or private corporation, a municipality, a county, or an agency, department, or instrumentality of the state or of a county or municipality.

(18) PROJECT. Any land, building, or other improvement, and all real and personal properties deemed necessary or useful in connection therewith, whether or not now in existence, that are or are to be located in the state and that have been or are to be acquired, constructed, expanded, or installed for use by an industrial or research enterprise or as a training facility.

(19) PROJECT COSTS. All costs and expenses incurred by the authority or any person in connection with the acquisition, construction, installation, and equipping of a project, including, without limitation any of the following:

a. The costs of acquiring, constructing, installing, and equipping a project, including all obligations incurred for labor and to contractors, subcontractors, builders, and materialmen.

b. The costs of acquiring land or rights in land and any cost incidental thereto, including recording fees.

c. The costs of contract bonds and of insurance of all kinds that may be required or necessary during the acquisition, construction, or installation of a project.

d. The costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, environmental mitigation, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, and installation of a project.

e. The costs associated with installation of fixtures and equipment, surveys, including archeological and environmental surveys, site tests and inspections, subsurface site work, excavation, removal of structures, roadways, cemeteries, and other surface obstructions, filling, grading, and provisions for drainage, storm water retention, installation of utilities, including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities, off-site construction of utility extensions to the boundaries of the property, and paving.

f. Interest accruing with respect to bonds of the authority or authority-guaranteed obligations for a period of up to two years after the issuance of such bonds.

g. All costs, expenses, and fees incurred in connection with the issuance of authority obligations and authority-guaranteed obligations, including, without limitation, all legal, accounting, financial, printing, recording, filing, and other fees and expenses.

h. The costs for obtaining bond insurance, letters of credit, or other forms of credit enhancement or liquidity facilities.

i. Amounts to be deposited in any reserve fund established with respect to such authority obligations or authority-guaranteed obligations.

j. All other costs of a nature comparable to or required in connection with those described.

k. Reimbursement to any person of any of the foregoing costs incurred by the person either for its own account, or for the account of the authority and without regard to when incurred.

(20) STATE INDUSTRIAL DEVELOPMENT AUTHORITY. The public corporation created pursuant to Article 2, Chapter 10 of Title 41 of the Code of Alabama 1975, as amended.

(21) TRAINING FACILITY. Any facility to be used for the purpose of providing vocational, technical, or other training for employees or prospective employees of any industry for the manufacturing, processing, cultivating, or assembling of any agricultural or manufactured product.

(22) TRAINING FACILITY MANAGEMENT FEES. Fees payable to any person as compensation for managing a training

facility under a management agreement entered into pursuant to Section 12 of this act.

(b) The definitions set forth in this section shall be deemed applicable whether the words defined are used in the singular or plural. Whenever used herein any pronoun or pronouns shall be deemed to include both singular and plural and to cover all genders.

Section 3. The Governor, the State Treasurer and the Director of Finance may become a public corporation and public instrumentality of the state with the powers herein provided, by proceeding according to Section 4 hereof.

Section 4. (a) To become the public corporation herein authorized, the Governor, the State Treasurer, and the Director of Finance shall present to the Secretary of State of Alabama an application signed by them which shall set forth all of the following:

(1) The name, official designation, and official residence of each of the applicants, together with a certified copy of the commission evidencing each applicant's right to office.

(2) The date on which each applicant was inducted into office and the term of office of each applicant.

(3) The name of the proposed public corporation, which shall be "Alabama Incentives Financing Authority."

(4) The location of the principal office of the proposed corporation, which shall be in the City of Montgomery.

(b) The applicants may also include in the application any other matters which are not inconsistent with this act or with any of the other laws of the state. The application shall be subscribed and sworn to by each of the applicants before an officer authorized by the laws of the state to take acknowledgments to deeds. The Secretary of State shall examine the application and, if he or she finds that it substantially complies with the requirements of this section, it shall be filed and recorded in an appropriate book of records in the office of the Secretary of State.

Section 5. When the application has been made, filed, and recorded, the applicants shall constitute a public corporation and public instrumentality of the state under the name set forth in the application and the Secretary of State shall make and issue to the applicants a certificate of incorporation pursuant to this act, under the great seal of the state, and shall record the certificate with the application. There shall be no fees paid to the Secretary of State for any service rendered or work performed in connection with the authority, its incorporation, dissolution or records.

Section 6. The applicants named in the application and their respective successors in office shall constitute the members of the authority. The Governor shall be the president of the authority, the State Treasurer shall be the vice president, and the Director of Finance shall be the secretary. The State Treasurer shall be treasurer of the authority, shall act as custodian of its funds, and shall pay, out of the funds appropriated to the authority and other funds available to the authority, debt service referable to bonds of the authority and any authority-guaranteed obligations and amounts due with respect to any other obligations of the authority incurred pursuant to this act. The members of the authority shall constitute all the members of the directors of the authority, and any two members of the directors shall constitute a quorum for the transaction of business. Should any person holding any state office named in this section cease to hold the office by reason of death, resignation, expiration of the term of office, or for any other reason, then his or her successor in office shall take the place as an officer and member of the directors of the authority. No officer or member of the directors of the authority shall receive any salary in addition to that now authorized by law for any service rendered or for any duty performed in connection with the authority. All proceedings had and done by the directors shall be reduced to writing by the secretary of the authority, shall be signed by at least two members of the authority present at the proceedings, and shall be recorded in a substantially bound book, and filed in the office of the Secretary of State. Copies of the proceedings, when certified by the secretary of the authority, under the seal of the authority, shall be received in all courts as prima facie evidence of the matters and things therein certified.

Section 7. The authority shall have, in addition to all other powers granted to it in this act, all of the following powers:

(1) To have succession by its corporate name until dissolved as herein provided.

(2) To institute and defend legal proceedings in any court of competent jurisdiction and proper venue; provided, however, that the authority may not be sued in any nisi prius court other than the courts of the county in which is located the principal office of the authority, and provided further that the officers, directors, agents, and employees of the authority may not be sued for actions in behalf of the authority in any nisi prius court other than the courts of the county in which is located the principal office of the authority.

(3) To have and to use a corporate seal and to alter the seal at pleasure.

(4) To establish a fiscal year.

(5) To issue and incur authority obligations, whether or not the interest thereon (or, in the case of authority guaranties, on the authority-guaranteed obligations to which such authority guaranties relate) is excluded from gross income for federal income tax purposes, for the purpose of financing project costs and providing for the payment of training facility management fees and to provide for the rights of the purchasers, holders or owners of authority obligations.

(6) To execute and deliver mortgages, security agreements, and trust indentures, and other forms of agreements for the purpose of securing authority obligations, and in connection therewith, to mortgage, pledge, or assign the revenues, receipts, and other property of the authority received, and the financing agreements entered into by the authority in connection with, the financing of projects under this act.

(7) To anticipate by the incurrence of authority obligations the receipt of the revenues appropriated and pledged to the authority and any other revenues available to the authority.

(8) As security for the payment of authority obligations, to pledge the proceeds of the appropriations and pledges herein provided for and any other funds available to the authority.

(9) To arrange for various forms of security or credit enhancement for authority obligations, including letter of credit, guaranties, policies of insurance, surety bonds, and the like.

(10) To collect such fees and charges in connection with authority obligations and financing agreements, including, but not limited to, reimbursement of costs of financing, as the authority shall determine to be reasonable.

(11) To accept gifts, grants, loans, appropriations, and other forms of aid from the federal government, the state or any state agency, or any political subdivision of the state, or any person or corporation, foundation, or legal entity, and to agree to and comply with any conditions attached to federal and state financial assistance not inconsistent with this act.

(12) To establish accounts in one or more depositories.

(13) To appoint, employ, contract with, and provide for the compensation of such employees and agents, including engineers, attorneys, contractors, consultants, accountants, fiscal advisors, trustees, paying agents, investment bankers, and underwriters as the directors deem necessary or desirable for the conduct of the business of the authority.

(14) To make, enter into, and execute financing agreements and such other contracts, agreements, or other instruments, and to take such other actions as may be necessary or convenient to accomplish any purpose for which the authority was organized or to exercise any power granted to it.

(15) To exercise any power granted by the laws of the state to public or private corporations which is not in conflict with the public purpose of this act.

(16) To adopt and promulgate administrative regulations necessary or appropriate to effectuate its purposes and to administer the programs authorized herein.

Section 8. (a) The authority is authorized from time to time to sell and issue its bonds, on a negotiated basis if the bonds are sold to the Retirement System of Alabama and/or the State Insurance Fund or, if sold to any other purchaser, at competitive public sale to the bidder offering to pay the highest total price which in turn would produce the lowest net interest cost to the authority, for the purpose of financing project costs pertaining to one or more projects or for the purpose of providing funds to pay training facility management fees, or any combination of the foregoing including, without limitation, in the case of authority obligations issued for the purpose of providing funds to pay training facility management fees, costs, expenses, and other items of the type described in paragraphs g., h., i. and j. of the definition of Project Costs in Section 2 of this act or to enter into guaranty agreements wherein the authority guarantees payment, in whole or in part, of debt service referable to obligations issued by development agencies for the purpose of financing project costs pertaining to one or more projects; provided, however, that the principal amount of authority obligations shall not exceed one hundred fifty million dollars ($150,000,000). For purposes of determining compliance with this section, (i) the principal amount of authority guaranties outstanding shall be determined on the basis of the outstanding principal of the authority-guaranteed obligations to which such authority guaranties relate, (ii) bonds of the authority (or, in the case of authority guaranties, the authority-guaranteed obligations to which such authority guaranties relate), the payment of debt service referable to which at and prior to their respective stated maturities is fully provided for by an irrevocable escrow consisting solely of cash and direct obligations of the United States, shall not be deemed to be outstanding, and (iii) in the case of bonds of the authority or authority-guaranteed obligations with respect to which interest is not payable on a current basis (generally referred to as "capital appreciation bonds"), the principal amount outstanding shall be computed on the basis of their

original principal amount and not on the basis of their accreted value. The authorization granted in the first sentence of this section shall include, but shall not be limited to, (1) the power to issue authority obligations related to financing project costs with respect to projects that are under construction on the date of issuance of such obligations and (2) the power to fund training facility management fees in advance of their incurrence and for such period as the directors deem appropriate based upon estimates furnished to the authority.

(b) The bonds of the authority shall be signed by its president and attested by its secretary and the seal of the authority shall be affixed. A facsimile of the signature of one or both of the officers may be printed or otherwise reproduced on any such bonds in lieu of being manually subscribed thereon and a facsimile of the seal of the authority may be printed or otherwise reproduced on any of the bonds in lieu of being manually affixed thereto. Any bonds of the authority may be executed and delivered by it at any time and from time to time, and shall be in the form and denominations and of such tenor and maturities, shall bear such rate or rates of interest, shall be payable at such times and evidenced in such manner, may be made subject to redemption at the option of the authority at such times and after such notice and on such conditions and at such redemption price or prices, and may contain such other provisions not inconsistent herewith, all as may be provided by the resolution of the directors of the authority under which the bonds are authorized to be issued. Bonds of the authority may be sold at public or private sale from time to time as the directors may consider advantageous.

(c) Subject to the provisions and limitations contained in this act, the authority may from time to time sell and issue refunding bonds for the purpose of refunding any matured or unmatured bonds of the authority or authority-guaranteed obligations then outstanding. The authority may pay out of the proceeds of the sale of refunding bonds such fees and the expenses of issuance which the said directors may deem necessary and advantageous in connection with the issuance of the refunding bonds; provided, however, that no refunding bonds shall be issued unless the present value of all debt service on the refunding bonds (computed with a discount rate equal to the true interest rate of the refunding bonds and taking into account all underwriting discount and other issuance expenses) shall not be greater than 95% of the present value of all debt service on the bonds to be refunded (computed using the same discount rate and taking into account the underwriting discount and other issuance expenses originally applicable to such bonds) determined as if such bonds to be refunded were

paid and retired in accordance with the schedule of maturities (considering mandatory redemption as a scheduled maturity) provided at the time of their issuance. Provided further that the average maturity of such refunding bonds, as measured from the date of issuance of such refunding bonds, shall not exceed by more than three years the average maturity of the bonds to be refunded, as also measured from such date of issuance, with the average maturity of any principal amount of bonds to be determined by multiplying the principal of each maturity by the number of years (including any fractional part of a year) intervening between such date of issuance and each such maturity, taking the sum of all such products, and then dividing such sum by the aggregate principal amount of bonds for which the average maturity is to be determined.

(d) Authority obligations shall not be general obligations of the authority but shall be payable solely from one or more of the following sources: (1) appropriated funds; (2) the revenues and receipts of the authority derived from any financing agreement entered into by the authority with respect to the project or projects financed by such authority obligations; (3) the income or proceeds realized by the authority under any mortgage or other security granted to the authority; (4) amounts derived from any letter of credit, insurance policy or other form of credit enhancement applicable to the authority obligations; (5) any reserve or other fund established for such purpose by the authority; (6) any earnings on the proceeds of authority obligations invested by the authority pending their disbursement; and (7) any other amounts that may hereafter be appropriated to the authority. As security for the payment of the debt service referable to bonds issued by it and of its obligations under authority guaranties, the authority is authorized and empowered to pledge for payment of such debt service and such obligations appropriated funds and other moneys and funds from which such authority obligations are made payable. All such pledges of appropriated funds made by the authority shall be on a parity, it being the intention hereof that all authority obligations secured by a pledge of appropriated funds shall be equally and ratably so secured without regard to time of issuance. All contracts made and all authority obligations issued or incurred by the authority pursuant to this act shall be solely and exclusively obligations of the authority and shall not constitute or create an obligation or debt of the state. Bonds issued by the authority shall be construed to be negotiable instruments, although payable solely from a specified source, as provided herein. The proceedings of the directors under which any authority obligations are authorized to be issued and any such mortgage and deed of trust or trust indenture may contain any agreements and provisions respecting the

collection and disposition of appropriated funds, revenues, and receipts subject to such mortgage and deed of trust or trust indenture, the creation and maintenance of special funds from such appropriated funds, revenues, and receipts, the rights, duties, and remedies of the parties to any such instrument and the parties for the benefit of whom the instrument is made and the rights and remedies available in the event of default, all as the directors shall deem advisable. Any pledge made with respect to authority obligations shall be valid and binding from the time such pledge is made; the appropriated funds, revenues, receipts, funds, and other property so pledged shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and the lien of pledge shall be valid and binding as against all parties having claims of any kind against the authority irrespective of whether the parties have notice thereof. Neither the proceedings of the directors authorizing the authority obligations nor any other instrument by which a pledge is created need be recorded. Each pledge, agreement, mortgage, and deed of trust or trust indenture made for the benefit or security of any of the authority obligations of the authority shall continue effective until the authority obligations have been fully paid or satisfied.

(e) Any bonds of the authority and any authority guaranteed obligations may be used by the holder as security for any funds belonging to the state, or to any political subdivision, instrumentality, or agency of the state, in any instance where security for the deposits may be required by law. Unless otherwise directed by the court having jurisdiction, or the document that is the source of authority, a trustee, executor, administrator, guardian, or one acting in any other fiduciary capacity may, in addition to any other investment powers conferred by law and with the exercise of reasonable business prudence, invest trust funds in bonds of the authority and authority-guaranteed obligations. Neither a public hearing nor consent of the Department of Finance or any other department or agency shall be a prerequisite to the issuance of bonds by the authority. Bonds of the authority and authority-guaranteed obligations shall be legal investments for funds of the Teachers' Retirement System of Alabama, the Employees Retirement System of Alabama, and the State Insurance Fund.

Section 9. The authority is authorized and empowered to apply the proceeds of any bonds of the authority, together with any other available funds, (i) for the purposes for which the bonds were issued; (ii) to fund the reserves as the authority deems necessary and desirable; and (iii) to the extent not needed for the foregoing uses, to pay or redeem the authority obligations. Pending the application of the proceeds of bonds of the authority to the purpose

or purposes for which the bonds were issued, the proceeds and any moneys held in special funds created as security for the bonds may be invested by the authority in eligible investments, as the directors deem advisable. Any and all revenues, receipts, investment earnings, and other funds paid to, or otherwise coming into the possession of, the authority as a result of financings accomplished from the proceeds of bonds of the authority, shall be held, deposited, administered, invested, and applied as provided in the resolution of the directors authorizing the issuance of the authority obligations and as provided in any trust indenture or other agreement delivered in connection therewith, or otherwise as the authority may direct, consistent with the resolution, trust indenture, or other agreement and this act.

Section 10. In addition to the power to finance training facility management fees through the issuance of bonds of the authority, the authority may, subject to this act, pay or reimburse such fees from any funds available to it, including, without limitation, appropriated funds.

Section 11. (a) For the purpose of providing funds to enable the authority to pay debt service referable to any bonds issued by it, amounts due on any authority guaranties entered into by it under this act and other obligations incurred by the authority pursuant to this act, there is irrevocably pledged to such purpose and is appropriated to the authority so much as may be necessary of the appropriated funds; provided, however, that if the authority has not, prior to September 30, 1996, incurred any authority obligations, the continuing appropriation herein made for all fiscal years of the state commencing subsequent to that date shall terminate and all cash and securities on deposit in the special account provided for in this section shall be promptly transferred by the State Treasurer to the general fund of the state. All moneys hereby appropriated and pledged shall be deposited in a special fund maintained by the State Treasurer separate and apart from all other funds under his or her supervision, and the State Treasurer is hereby directed to cause moneys in the special fund to be disbursed solely for the following purposes:

(1) Prior to dissolution of the authority, moneys on deposit in the special fund shall be disbursed by the State Treasurer in payment of debt service referable to authority obligations and in payment of other obligations of the authority incurred pursuant to this act; provided, however, that if directed so to do by a resolution of the directors, the State Treasurer shall transfer from the special fund to the general fund of the state moneys and securities the directors determine are not needed to meet obligations of the authority.

(2) Promptly upon dissolution of the authority, the State Treasurer shall transfer all cash and securities on deposit in the special fund to the general fund of the state.

(b) Pending disbursement for the above purposes, moneys on deposit in the special fund shall be invested in eligible investments as specified by the directors.

Section 12. (a) No authority obligations shall be incurred with respect to any project and no funds of the authority shall be applied to payment of training facility management fees pursuant to Section 11 of this act unless the following conditions are met:

(1) Subject to subdivisions (3), (4), and (5) of this section, in the case of any project financed in whole or in part through the issuance of bonds of the authority, title to the financed property shall be acquired in the name of, or transferred promptly after acquisition to, the authority and the title shall remain in the authority.

(2) Subject to subdivisions (3), (4), and (5) of this section, in the case of any project financed in whole or in part through the issuance of authority-guaranteed obligations, title to the financed property shall be acquired in the name of, or transferred promptly after acquisition to, the development agency issuing such authority-guaranteed obligations and the title shall remain in the development agency.

(3) In the case of any project constituting an industrial or research facility and financed in whole or in part through the issuance of bonds of the authority or authority-guaranteed obligations, the financed property may be leased to an approved company under an agreement containing such provisions as the authority may require, including without limitation, provisions for the payment of nominal rental by the lessee; provided, however, that the agreement shall not grant to the lessee any option to purchase the financed property at a price, determined as of the date of the exercise of such option, less than the fair market value of the financed property, and any option to purchase the financed property granted to the lessee or any other person in the agreement or by separate instrument, whenever granted, at less than the fair market value, shall be void and of no effect.

(4) In the case of any project constituting an industrial or research facility and financed in whole or in part through the issuance of bonds of the authority or authority-guaranteed obligations, the financed property may be acquired and held in the name of any person under an agreement containing the following provisions:

a. The title to the financed property shall not be conveyed to any person other than the authority and shall, except as hereinafter provided, be conveyed to the authority free and clear of all liens and encumbrances and without the payment of consideration by the authority within 60 days after the date on which operation of the project by the approved company ceases.

b. In lieu of such conveyance of title to the authority, the approved company may at its option pay the authority the fair market value of the financed property as of the date of cessation of operations and retain title to the financed property.

c. The obligations of the approved company to the authority not to convey title to the financed property to any person other than the authority and to convey the financed property to the authority in accordance with the preceding paragraph a. shall be secured by the grant of a security interest in the financed property acceptable to the authority.

(5) In the case of the issuance of bonds of the authority to provide funds for payment of project costs referable to a training center or training facility management fees or in the case of direct funding of training facility management fees pursuant to the provisions of Section 10 of this act without the issuance of bonds of the authority, the authority shall enter into an agreement with any person to provide for operation and management of a training facility by the person and to prescribe the terms and conditions upon which training facility management fees are to be paid or reimbursed by the authority from the proceeds of the bonds and, if the authority deems it to be appropriate, granting to the person an option to purchase such training facility at a price, determined as of the date of exercise of such option, equal to the fair market value of such training facility as of the date of exercise of such option, and any option to purchase such training facility granted to any person in such agreement or by separate instrument at less than such fair market value shall be void and of no effect.

(b) For purposes of this section, a cessation of operation of a project permanent in nature shall not be deemed to have occurred if occasioned by strikes; riots; unavailability of raw materials, supplies, or utilities; or acts of God or the public enemy. Any lease agreement, operation and management agreement, or other agreement provided for in subdivisions (3), (4), or (5) of this section shall be entered into prior to or contemporaneously with the issuance of the bonds or authority guaranty to which it relates or, in the case of the funding of training facility management fees without the issuance of bonds, prior to the expenditure of any funds of the authority and shall provide that it is not subject to amendment,

termination, or assignment without the prior consent of the authority. Nothing in this act shall be construed to prohibit the ownership by any person of, or the granting to any person of, a purchase option at a nominal price, any part of a project not financed, directly or indirectly, by authority obligations.

Section 13. Upon the adoption by the directors of any resolution providing for the issuance of authority obligations, the authority may, in its discretion, cause to be published once a week for two consecutive weeks, in newspapers published or having a general circulation in the cities of Birmingham, Montgomery, Huntsville, and Mobile, a notice in substantially the following form (the blanks being properly filled in) at the end of which shall be printed the name and title of either the president or the secretary of the authority:

"Alabama Incentives Financing Authority, a public corporation under the laws of the State of Alabama, on the _____ day of _____, authorized the issuance of $ _____ principal amount of bonds (a guaranty agreement securing $ _____ principal amount of bonds of _____) for purposes authorized in (citation to this Act). The proceeds from the sale of the bonds are proposed to be used to finance the acquisition, construction, and installation of facilities to be located at _____ _____ (to provide funds for payment of management fees associated with a training facility located at _____). Any action or proceeding questioning the validity of the bonds (guaranty agreement), the security thereof, the use of the proceeds thereof (the obligations so guaranteed) or the proceedings authorizing the bonds, shall be commenced within 30 days after the first publication of this notice."

Any action or proceeding in any court to set aside or question the proceedings for the incurrence of the authority obligations referred to in the notice or to contest the validity of any authority obligations, or the validity of security therefor, or the validity of the proposed use of the proceeds thereof or (in the case of an authority guaranty) the proceeds (of the obligations so guaranteed), must be commenced within 30 days after the first publication of the notice. After the expiration of the period, no right of action or defense questioning or attacking any of the foregoing shall be asserted, nor shall the validity of the said proceedings, authority obligations, security or use of proceeds be open to question in any court on any ground whatsoever except in an action commenced within the period.

Section 14. The income and property of the authority, all authority obligations and the interest paid on any such authority

obligations, all conveyances by or to the authority, and all instruments by or to the authority shall be exempt from all taxation in the state. The authority shall also be exempt from all license and excise taxes imposed in respect of the privilege of engaging in any of the activities in which the authority may engage. The authority shall not be obligated to pay or allow any fees, taxes, or costs in the recording of any document to the judge of probate of any county.

Section 15. Except as may be expressly provided in this act, no proceeding, notice, or approval shall be required for the issuance of any authority obligations, the execution of any mortgage and deed of trust, trust indenture, or other document, or the exercise of any other of the powers of the authority. Neither a public hearing nor the consent of the Department of Finance shall be prerequisite to the issuance of authority obligations by the authority.

Section 16. Articles 2 and 3 of Chapter 16 of Title 41, Code of Alabama 1975, or other similar laws, shall not apply to the authority, its directors, or any of its officers, agents, or employees in their capacities as such.

Section 17. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 18. At any time when no authority obligations are outstanding and the authority has no outstanding obligation with respect to payment of training facility management fees, the authority may be dissolved upon the filing with the Secretary of State of an application for dissolution, which shall be subscribed by each of the directors of the authority and sworn to by each director before an officer authorized to take acknowledgments to deeds. Upon the filing of the application for dissolution, the authority shall cease to exist. The Secretary of State shall file and record the application for dissolution in an appropriate book of record in his or her office, and shall make and issue, under the great seal of the state, a certificate that the authority is dissolved, and shall record the certificate with the application for dissolution. Title to all property held in the name of the authority shall be vested in the state upon dissolution of the authority.

Section 19. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 20, 1995

Time: 4:16 P.M.

Act No. 95-374 H. 739 – Rep. Newton (C)

AN ACT

Relating to Crenshaw County abolishing the office of constable.

Be It Enacted by the Legislature of Alabama:

Section 1. In Crenshaw County the office of constable shall be abolished pursuant to Section 36-23-1, Code of Alabama 1975. All assets, money, property, real or personal, equipment, and supplies belonging to such office shall be transferred to the county commission for use or disposition.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 24, 1995

Time: 10:30 A.M.

Act No. 95-375 H. 612 – Rep. Boyd

AN ACT

Relating to Calhoun County; to authorize any city in the county and the county commission to declare noxious or dangerous weeds growing upon the streets, roads, or sidewalks, or upon private property within the city or county, or any accumulation of trash, rubbish, junk or debris, or any unsightly or dangerous walls, or any abandoned or unsafe construction of any kind or nature, or motor vehicles or machinery not in operating condition, or any debris of a burned building, or any abandoned or unused swimming pool, or any abandoned wells or cisterns, to be a public nuisance and creating a lien upon the property fronting upon the streets, roads, or sidewalks or upon which the nuisance exists for the cost of abatement.

Be It Enacted by the Legislature of Alabama:

Section 1. For purposes of this act, "city" means any city or town located in Calhoun County. Any city in Calhoun County and the Calhoun County Commission may have the provisions of this act apply to the city adopting an ordinance or the county by adopting a resolution stating that fact. Upon the adoption of the ordinance or resolution by the city, the city within its corporate limits, and upon the adoption of a resolution by the county, the county as to platted subdivisions outside the corporate limits and outside of the corporate limits of any municipality within or partially within the county, shall exercise the authority and perform the duties delegated by this act.

Section 2. All weeds growing upon streets or sidewalks or upon private property within the city limits of the city or in

unincorporated areas that are in platted subdivisions of the county, which attain such large growth as to become a fire menace when dry, or which are otherwise noxious or dangerous, and any accumulation of trash, rubbish, junk or debris, or any unsightly or dangerous walls, or any abandoned or unsafe construction of any kind or nature, or motor vehicles not in usable condition, or any debris of a burned building, or any abandoned or unused swimming pool, or any abandoned wells or cisterns, may be declared to be a public nuisance by the city governing body or by the county commission, and thereafter abated as provided in this act.

Section 3. Whenever any officer or employee of the city or the county having that responsibility reports to the city or county governing body the existence of any condition enumerated in Section 2 hereof, the city governing body or the county commission may, by resolution, if the proof is satisfactory, declare the condition to be a public nuisance. The resolution shall refer to the street or road by the name under which it is commonly known, and describe the property upon which or in front of which the nuisance exists by giving a legal description thereof. No other description of the property shall be required. Any number of streets, roads, sidewalks, or parcels of private property may be included in the same resolution.

Section 4. After the passage of the resolution, the city governing body or the county commission shall conspicuously post in front of the property on which or in front of which the nuisance exists, at not more than one hundred feet in distance apart, at least two notices headed "Notice to Remove Public Nuisance." The heading to be in words not less than one inch in height and substantially in the following form:

"NOTICE TO REMOVE PUBLIC NUISANCE

Notice is hereby given that on the _____ day of _____, 19 _____, the (city) or (county) governing body passed a resolution declaring that a public nuisance exists upon or in front of the property on _____ (street) (road) in the city or county, more particularly described in the resolution. The public nuisance must be abated by its removal by the city or county authorities, and the cost of the removal shall be assessed upon the lots and lands from which or in front of which the public nuisance is removed. The cost shall constitute a lien upon the lots or lands until paid. Reference is hereby made to the resolution for further particulars.

All property owners having any objections to the proposed removal of the public nuisance are notified to attend a meeting of the governing body of the City of _____ (or county commission)

to be held (give date, time, and location), when their objections will be heard and given due consideration.

Dated this day of _____ , 19 ____, Name of City (or County) _____ By _____ City Clerk."

The notice shall be posted at least five days prior to the time for hearing objections by the governing body of the city or county. In addition, a notice shall be mailed to the owner of the property at least five days before the meeting at which objections will be heard. A notice mailed to the person last assessed for property taxes due on the property according to the records of the county tax assessor shall be conclusively presumed to be adequate and to comply with these requirements.

Section 5. At the time stated in the notices, the governing body of the city or county shall hear and consider all objections or protests, if any, to the proposed removal of the nuisance, and may continue the hearing from time to time. Upon the conclusion of the hearing, the governing body, by motion or resolution, shall allow or overrule any or all objections. If the objections are overruled with respect to any piece of property, the governing body shall be deemed to have acquired jurisdiction to proceed and perform the work of removal with respect to the piece of property. The decision of the governing body on the matter shall be deemed final and conclusive.

Section 6. After final action has been taken by the governing body on the overruling of any protests or objections with respect to any described piece of property, or in case no protests or objections have been received, the city or county governing body, by motion or resolution, shall order the abatement of the nuisance by having the nuisance removed. All necessary employees of the city or county are expressly authorized to enter upon private property for the purpose of abatement. Any property owner may have any nuisance removed at his or her own expense providing it is done prior to the arrival of the employees of the city or county to remove it.

Section 7. The city or county governing body shall keep an account of the cost of abating the nuisance and render an itemized report in writing showing the cost of removing the nuisance on each separate lot, or in front thereof, or both. Before the report is submitted, a copy shall be mailed to the owner or owners of the property at least three days before the report shall be submitted.

Section 8. At the time fixed for receiving and considering the report, the city or county governing body shall hear the report, together with any objections which may be raised by any of the

property owners liable to be assessed for the work of abating the nuisance. It shall make such modifications in the report as it deems necessary, after which by motion or resolution the report shall be confirmed. The amounts of the cost for abating the nuisance in front of or upon the various parcels of land mentioned in the report shall constitute special assessments against the respective parcels of land and shall constitute a lien on the property for the amount of the assessments. After confirmation of the report, a copy shall be turned over to the appropriate official or employee of the city or county who is charged with the collection of taxes or assessments. The official or employee shall add the amounts of the respective assessments to the next regular bills for taxes levied against the respective lots and parcels of land for city or county purposes. Thereafter, the amounts shall be collected at the same time and in the same manner as ordinary city or county taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency as provided for ordinary city or county taxes.

Section 9. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 24, 1995

Time: 10:31 A.M.

Act No. 95-376 H. 679 – Rep. Knight (A)

AN ACT

To authorize and adopt a voluntary public-private non-profit partnership or trust agreement proposed by The Citizenship Trust; to enhance and expand citizenship education of young people; and to provide for the purposes, member parties, organization, structure, incorporation, non-profit status, powers, tax exemption from state and local taxes.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) Under Chapter 44A of Title 16 of the Code of Alabama 1975, the Joint Legislative Committee on Southern Leadership Goals authorized and consented to the formation of a non-profit entity, subsequently organized as The Citizenship Trust and domiciled in Shelby County, Alabama, for the purpose of, among other things, proposing to the Legislature a voluntary compact to promote citizenship education programs.

(b) The Legislature now finds that the voluntary partnership, compact, or trust should be authorized and ratified whereby public

and private entities which desire to work together may do so to enhance and expand citizenship education for students. The Legislature further finds that citizenship and character education of young people in the principles of the Constitution, Bill of Rights, and other great foundations of the American Republic are essential to the civic, political, economic, security, and social well-being of our society, and to the advancement and progress of the State of Alabama, this region, and our nation.

Section 2. The State of Alabama hereby authorizes, ratifies, and is made a party to the voluntary public-private citizenship education agreement, compact, or trust which is set out in full as follows:

"Article I

"The name of this agreement shall be The Citizenship Trust, herein referred to as the "Trust, "agreement," or "compact."

"Article II

"The purpose of this agreement is to renew the commitment of member parties to the vitality of our American citizenship by providing students high quality educational programs, learning experiences, and resources inside and outside the classroom which enhance their understanding and appreciation of the principles of American citizenship, and knowledge of the Constitution, Bill of Rights, and other essential foundations of the American Republic, and which encourage them to serve and lead their communities, state, and nation as active, responsible, informed, and law-abiding citizens.

"Article III

"This trust shall encourage voluntary, cooperative, and non-duplicative efforts to expand high quality citizenship education programs for students. Member parties to this agreement may include any public, private, or non-profit organization, entity, or individual who subscribes to the purpose of the agreement. Members may choose to participate or not participate in any programs of the trust, and membership shall in no way restrict, diminish, impinge upon, create obligations of, or limit the autonomy of the respective member parties. The elected officials of any governmental unit which subscribes to this agreement and who desire to do so shall serve as ex officio members of this compact. There shall be an annual meeting or assembly of the members to hear progress reports, share ideas of successful citizenship education projects, and make recommendations to the Board of Trustees.

"Article IV

"The Citizenship Trust shall be domiciled in Shelby County, Alabama, and shall be constituted as a public not-for-profit educational corporation upon the filing of these articles with the Secretary of State. It is the intent of these articles that The Citizenship Trust shall be qualified as a Section 501(c)(3) organization under the Internal Revenue Code and regulations of the United States, and that none of the net proceeds of the trust shall ever inure to the personal, private benefit of an individual.

"Article V

"The Citizenship Trust shall be governed by a board of directors, designated the Board of Trustees (herein called the "board"), and elected in accordance with bylaws of the Trust. There shall be a chair, vice chair, and secretary, and other officers as determined by the bylaws. The board membership shall be diverse and broadly representative, and at least one fourth of its members shall be black.

"Article VI

"The board shall adopt and revise its bylaws consistent with this agreement and the laws of Alabama. A copy shall be filed with the Secretary of State.

"Article VII

"The trust shall develop, share, conduct, and encourage citizenship educational programs and experiences through instructional materials, resources, a demonstration classroom, exhibition, and educational resource facility programs, and through programs and experiences extended and available for use in classrooms, schools, and other citizenship organizations by television, technology, teacher services, educational resource materials, and other means.

"Article VIII

"The trust shall encourage close cooperation and exchange of ideas and successful programs. Participation in its programs and services shall be voluntary. The trust shall focus its efforts on citizenship education and shall not provide community leadership organization programs. The trust shall encourage its members to work together to create a new generation of citizens mindful of the rich blessings of their American citizenship, who are knowledqeable not only of its privileges but of its responsibilities as well, and who are committed to serving their communities, state, and nation as law-abiding, informed, active, and responsible citizens.

"Article IX

"The board may designate the trust by another name, but the name shall include the words "Citizenship Trust," and the designation shall in no way affect any of the rights, privileges, or responsibilities of the trust. In the event of dissolution of the trust, which may be accomplished only by legislative act, the residual assets shall be turned over to another public corporation or organization which is exempt from federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code.

"Article X

"The interim board of directors of the Citizenship Trust, as now constituted, shall effectuate the implementation of this agreement, including adoption of initial bylaws, and all other matters deemed necessary to organize the trust and make it operational. This article shall expire 90 days after the ratification of this agreement by the State of Alabama, at which time the permanent board provided in Article V shall assume duties."

Section 3. In furtherance of the purposes of the trust, the board of trustees shall have the following powers and duties:

(1) Accept gifts, contributions, donations of funds or land, bequests, grants, appropriations, membership fees, or other forms of financial assistance for educational and other purposes in furtherance of this act, from any federal entity, from the state, its agencies and various political subdivisions, or any public or other entity, any and all of which are hereby authorized to grant any of the foregoing forms of assistance, or from any private person, foundation, corporation or other agency, and to comply with any rules and regulations concerning grants by the federal government or other grantors, which are not in contravention of the Constitution and laws of this state or the United States.

(2) Enjoy and exercise any powers and duties, not inconsistent with this act, which are authorized to non-profit corporations under Title 10 of the Code of Alabama 1975.

(3) Enter into any agreements as it deems necessary to finance any property, equipment, or facility used for its educational mission, including entering contracts with a local or municipal public educational building authority as a qualified "educational institution" within the meaning of Chapter 18 of Title 16 of the Code of Alabama 1975. For the purpose of repayment of the obligations, any of the sources of funds available to it as provided in subsection (1) above or as may otherwise be made available to it above are hereby irrevocably pledged to that purpose and appropriated therefor in sums as necessary by this act. The obligations shall not

be deemed or constitute in any way obligations of the State of Alabama.

(4) Create membership categories and establish dues. The trust shall be open to member parties from anywhere in the United States, it being the intent to network and share ideas on how to enhance citizenship education for young people.

(5) Establish and administer its financial accounts, and deposit its funds in any bank qualified to serve as a local or state public depositary. It shall engage an annual audit by a certified public accountant and furnish a copy of the audit to the Department of Examiners of Public Accounts.

(6) Engage the services, by employment or otherwise, of a part-time or full-time executive director, who shall be the chief administrative officer, and fix the term and make provisions for compensation and any allowances or benefits as it may provide. The officer shall serve as secretary of the trust and execute all documents for the trust, and shall employ or contract for any necessary personnel or assistance and terminate, whenever necessary, any personnel or other assistance, and fix the terms for assistance, within the overall budget approved by the board. The personnel shall be reimbursed for travel in the same manner provided for public employees, provided the travel is approved in advance by the executive director.

(7) Engage in cooperative agreements or contracts with public and private entities for purposes compatible with the trust agreement and this act.

(8) Delegate to the executive director any and all powers and duties necessary to aid in the efficient administration of the policies of the board. The board may authorize the executive director **to administer a private non-profit foundation in support of the** trust.

(9) File an annual report with the Governor, Legislature of Alabama, and member parties.

(10) Board members shall not be compensated for their services, but shall be entitled to the same expense and per diem authorized to state employees, for official board business as approved by the chair of the board.

Section 4. To effectuate the purposes of this act, the board of directors of The Citizenship Trust, an unincorporated non-profit association domiciled in Shelby County, Alabama, may present to the Secretary of State an executed application for incorporation compatible with the purposes of this act, and setting forth the

compact or trust agreement herein ratified. The application shall provide for a name of the corporation, which shall include the words "Citizenship Trust." The Secretary of State shall immediately examine the application, and, if he or she finds that it substantially complies with the requirements of this act, the secretary shall receive it, file it, and record it in the appropriate books of record, and shall make and issue to the applicants a certificate of incorporation as a not-for-profit public educational corporation, under the great seal of the state, and shall record the certificate with the application. No fees shall be required to be paid to the Secretary of State for any work in connection with the incorporation of the trust.

Section 5. (a) The trust shall be exempt from all taxes of the State of Alabama and its political subdivisions. Provided that the trust's "unrelated business taxable income" as determined in accordance with 26 U.S.C. 512, as in effect from time to time, shall be subject to the tax levied by Section 40-18-31, Code of Alabama 1975, as amended. All receipts, from whatever source, are appropriated to the trust until expended and shall not lapse. The trust is authorized to solicit gifts and donations, and all gifts, grants, devises, and bequests shall be deductible from state income taxes in accordance with Section 40-18-15, Code of Alabama 1975.

(b) All of the acts provided for in the body of the compact or trust agreement are hereby specifically authorized and provided for, it being the intent of this act to incorporate the entirety of the provisions of the compact into the Code of Alabama. This compact and this act shall be liberally construed to effectuate the purposes of the act, and shall be severable.

Section 6. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 24, 1995

Time: 10:32 A.M.

Act No. 95-377 H. 693 – Rep. Fuller

AN ACT

To amend Section 41-4-60, Code of Alabama 1975, relating to state warrants; to reduce the period of time to one year for which a state warrant may be presented for payment, or for which a claim on a warrant may be made.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 41-4-60 of the Code of Alabama 1975, is amended to read as follows:

"§41-4-60.

"(a) Any warrant heretofore or hereafter drawn by the state comptroller on any fund in the state treasury which is outstanding and unpaid one year from the date of issue shall be void and payment of the warrant shall be stopped by the state treasurer. Any claim on which any such voided warrant was based shall be forever barred after the expiration of one year from the date on which the warrant was issued.

"(b) Upon the expiration of the period of time provided herein for the voiding of warrants, the state treasurer shall transfer the amount of the voided warrants to the state general fund.

"(c) Duplicate warrants issued to replace warrants which have been lost, mutilated or destroyed shall be deemed to be original warrants for the purposes of this section."

Section 2. The provisions of this act are severable and should any provision be declared unconstitutional such declaration shall not affect the remaining portions thereof.

Section 3. This act shall become effective September 1, 1995.

Approved July 24, 1995

Time: 10:35 A.M.

Act No. 95-378 H. 94 – Reps. Page, Petelos, Morrow

AN ACT

To amend Section 17-1-7, Code of Alabama 1975, to provide that public employees, including law enforcement officers, firefighters, and peace officers, may engage in or refrain from participating in political activity.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 17-1-7, Code of Alabama 1975, is amended to read as follows:

"§17-1-7.

"(a)(1) No person in the employment of any city, whether classified or unclassified, shall be denied the right to participate in

city, county, or state political activities to the same extent as any other citizen of the state of Alabama, including endorsing candidates and contributing to campaigns of his or her choosing.

"(2) No person in the employment of any county, whether classified or unclassified, shall be denied the right to participate in city, county, or state political activities to the same extent as any other citizen of the state of Alabama, including endorsing candidates and contributing to campaigns of his or her choosing.

"(3) No person in the employment of the state of Alabama, whether classified or unclassified, shall be denied the right to participate in city, county, or state political activities to the same extent as any other citizen of the state of Alabama, including endorsing candidates and contributing to campaigns of his or her choosing. Notwithstanding the foregoing, any person within the classified service shall comply with section 36-26-38.

"(4) All persons in the employment of any city, county, or state shall have the right to join local political clubs and organizations, and state or national political parties.

"(5) All persons in the employment of any city, county, or state shall have the right to publicly support issues of public welfare, circulate petitions calling for or in support of referendums, and contribute freely to those of his or her choosing.

"(b) No person shall attempt to use his or her official authority or position for the purpose of influencing the vote or political action of any person. Any person who violates this subsection (b) shall be guilty of a felony and punishable by a fine not to exceed ten thousand dollars ($10,000) or imprisonment in the state penitentiary for a period not to exceed two years, or both.

"(c) No person in the employment of the state of Alabama, a county, or a city whether classified or unclassified, shall use any state, county, or city funds, property or time, for any political activities. Any person who is in the employment of the state of Alabama, a county, or a city shall be on approved leave to engage in political action or the person shall be on personal time before or after work and on holidays. It shall be unlawful for any officer or employee to solicit any type of political campaign contributions from other employees who work for the officer or employee in a subordinate capacity. It shall also be unlawful for any officer or employee to coerce or attempt to coerce any subordinate employee to work in any capacity in any political campaign or cause. Any person who violates this section shall be guilty of the

crime of trading in public office and upon conviction thereof, shall be fined or sentenced, or both, as provided by section 13A-10-63.

"(d) Notwithstanding subsection (c), any employee of a county or a city, whether in the classified or unclassified service, who qualifies to seek a political office with the governmental entity with which he or she is employed, shall be required to take an unpaid leave of absence from his or her employment, or use accrued overtime leave, or use accrued vacation time with the county or city from the date he or she qualifies to run for office until the date on which the election results are certified or the employee is no longer a candidate or there are no other candidates on the ballot. For purposes of this subsection, the term "employing authority" means the county commission for county employees or the city council for city employees. Any employee who violates this subsection shall forfeit his or her employment position. In no event shall subsection (d) of this act apply to elected officials.

"(e) When off duty, out of uniform, and acting as a private citizen, no law enforcement officer, firefighter, or peace officer shall be prohibited from engaging in city, county, or state political activity or denied the right to refrain from engaging in political activity so long as there is compliance with this section."

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 24, 1995

Time: 10:36 A.M.

Act No. 95-379 S. 63 – Senator Freeman

AN ACT

To require city and town governing bodies to assess a charge against certain landowners seeking to connect to a sewer or sewer system and to provide that the act shall be construed as cumulative to certain existing law.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) If a landowner, whose property has not previously been assessed a fee for the public improvement of sanitary sewers or the sanitary sewer system, requests to be connected to the existing sanitary sewer after the term of a public improvement

ordinance relating to that improvement has expired, the governing body of any city or town shall, if the improvement has sufficient capacity to add the user, assess a charge against the property to be drained, served, or benefitted by the sanitary sewers or sanitary sewer system to the extent of the increased value to the property by reason of the special benefit derived from the connection.

(b) The assessment shall be computed at the same rate, if readily available, for property originally assessed under the public improvement ordinance establishing the sanitary sewers to which the landowner desires to connect. If the governing body determines the rate is not readily available, the assessment shall be as determined by the governing body, but shall not be in excess of either (1) the reasonable front foot cost of the sewer at current construction costs under similar circumstances or (2) the increased value to the property by reason of the special benefit derived from the connection.

(c) The fee for the connection shall be assessed prior to a plumbing permit being issued to perform the connection. Payment for the assessment shall be allowed pursuant to Section 11-48-48 of the Code of Alabama 1975, and arrangements for the payment shall be made prior to the issuance of any required plumbing permit for the connection.

Section 2. The provisions of this act are cumulative and shall not be construed to repeal or supersede any provisions of any local law or general law of local application relating to assessment of property owners by cities or towns for public improvements.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 24, 1995

Time: 3:45 P.M.

Act No. 95-380 S. 74 – Senators Amari, Hale, Armistead, Butler, and Little

AN ACT

To require timely payments to contractors, subcontractors, and sub-subcontractors; and to provide for interest on late payments.

Be It Enacted by the Legislature of Alabama:

Section 1. For the purpose of this act, the following words have the following meanings:

(1) CONTRACTOR. Any person, individual, firm, corporation, partnership, or other legal entity who contracts with an owner to improve real property or perform construction services for an owner.

(2) IMPROVE. To build, effect, alter, repair, or demolish any improvements upon, connected with, or on, or beneath the surface of any real property; to excavate, clear, grade, fill, landscape any real property; to construct driveways and roadways; to furnish materials, including trees and shrubbery, for any of these purposes; or to perform any labor upon these improvements.

(3) IMPROVEMENT. All or any part of any building, structure, erection, alteration, demolition, excavation, clearing, grading, filling, or landscaping, including trees and shrubbery, driveways, and roadways on real property.

(4) OWNER. Any person, individual, firm, corporation, partnership, or other legal entity who has an interest in the real property improved and for whom an improvement is made, who either directly or by agent ordered the improvement to be made.

(5) REAL PROPERTY. The real estate that is improved, including lands, leaseholds, tenements, and improvements placed on the real property.

(6) SUBCONTRACTOR. Any person, individual, firm, corporation, partnership, or other legal entity who has contracted to furnish labor or materials to, or has performed labor or supplied materials for a contractor in connection with a contract to improve real property.

(7) SUB-SUBCONTRACTOR. Any person, individual, firm, corporation, partnership, or other legal entity who has contracted to furnish labor or materials to, or has performed labor or supplied materials for a subcontractor in connection with a contract to improve real property.

Section 2. Performance by a contractor, subcontractor, or sub-subcontractor in accordance with the provisions of his or her contract entitles them to payment from the party with whom they contract. All contracts between parties require a date of payment.

Section 3. (a) When a contractor has performed pursuant to his or her contract and submits an application or pay request for payment or an invoice for materials, to the owner or owner's representative, the owner shall timely pay the contractor by mailing via first class mail or delivering the amount of the pay request or invoice in accordance with the payment terms agreed to by the owner and the contractor, the agreed upon payment terms must be

specified in all contract documents, but if payment terms are not agreed to, then within 30 days after receipt of the pay request or invoice.

(b) When a subcontractor has performed pursuant to his or her contract and submits an application or pay request for payment or an invoice for materials to a contractor in sufficient time to allow the contractor to include the application, request, or invoice in his or her own pay request submitted to an owner, the contractor shall timely pay to the subcontractor in accordance with the payment terms agreed to by the contractor and subcontractor, but if payment terms are not agreed to, then within seven days of receipt of payment from owner by mailing via first class mail or delivering the amount received for the subcontractor's work and materials based on work completed or service provided under the contract.

(c) When a sub-subcontractor has performed labor or supplied materials for a subcontractor pursuant to his or her contract and submits an application or pay request for payment or an invoice for materials to a subcontractor in sufficient time to allow the subcontractor to include the application, request, or invoice in his or her own pay request submitted to a contractor, the subcontractor shall timely pay the sub-subcontractor in accordance with the payment terms agreed to by the subcontractor and sub-subcontractor but if payment terms are not agreed to, then within seven days of receipt of payment from contractor by mailing via first class mail or delivering the amount received for the sub-subcontractor's work and materials based on work completed or service provided under the contract.

(d) If the owner, contractor, or subcontractor does not make payment in compliance with this act, the owner, contractor, or subcontractor shall be obligated to pay his or her contractor, subcontractor, or sub-subcontractor interest at the rate of one percent per month (12% per annum) on the unpaid balance due.

(e) A contractor who receives a payment under subsection (a) of this section or otherwise, from an owner in connection with a contract shall pay each of its subcontractors the portion of the owner's payment to the extent of that subcontractor's interest in the owner's payment. The payment shall include interest, if any, that is attributable to work performed or materials suitably stored by that subcontractor if payment for stored materials is provided for in the contract. The payment required by this subsection shall be made not later than the seventh day after the date the contractor receives the owner's payment.

(f) The percentage of retainage on payments by the contractor to the subcontractor shall not exceed the percentage of retainage

on payments made by the owner to the contractor. Any percentage of retainage on payments made by contractor to the subcontractor that exceeds the percentage of retainage on payments made by the owner to the contractor shall be subject to interest to be paid by the contractor to the subcontractor at the rate of one percent per month (12% per annum).

(g) The percentage of retainage on payments by the subcontractor to the sub-subcontractor shall not exceed the percentage of retainage on payments made by the contractor to the subcontractor. Retainage on payments made by the subcontractor to the sub-subcontractor that exceeds the percentage of retainage on payments made by the contractor to the subcontractor shall be subject to interest paid at the rate of one percent per month (12% per annum).

Section 4. (a) Nothing in this act shall prevent the owner, contractor, or subcontractor from withholding application and certification for payment for any of the following reasons if there is a bona fide dispute over one or more of the following:

(1) Unsatisfactory job progress.

(2) Defective construction not remedied.

(3) Disputed work.

(4) Third party claims filed or reasonable evidence that a claim will be filed.

(5) Failure of the contractor, subcontractor, or sub-subcontractor to make timely payments for labor, equipment, and materials.

(6) Property damage to owner, contractor, or subcontractor.

(7) Reasonable evidence that the contract, subcontract, or sub-subcontract cannot be completed for the unpaid balance of the contract or contract sum.

(b) In the event that there is a bona fide dispute over all or any portion of the amount due on a progress payment from the owner, contractor, or subcontractor then the owner, contractor, or subcontractor may withhold payment in an amount not to exceed 2 times the disputed amount.

(c) An owner is required to notify a contractor in writing within 15 days of receipt of any disputed request for payment. A contractor, subcontractor and sub-subcontractor is required to provide written notification within 5 days of disputed request for payment or notice of disputed request for payment.

Section 5. A party may not waive the right to receive interest before a payment is due under a contract subject to this section. A party may waive the interest due on any late payment on or after the date the payment is due under Section 3.

Section 6. (a) A contractor, subcontractor, or sub-subcontractor may file a civil action solely against the party contractually obligated for the payment of the amount claimed to recover the amount due plus the interest accrued in accordance with this act. If the court finds in the civil action that the owner, contractor, or subcontractor has not made payment in compliance with this act, the court shall award the interest specified in this act in addition to the amount due. In any such civil action, the party in whose favor a judgement is rendered shall be entitled to recover payment of reasonable attorneys' fees, court costs and reasonable expenses from the other party.

Section 7. This act does not apply to the following:

(a) Residential homebuilders.

(b) Improvements to real property intended for residential purposes which consist of 16 or fewer residential units.

(c) Contracts, subcontracts, or sub-subcontracts in the amount of ten thousand dollars ($10,000) or less.

(d) Contracts with the State or local governments of the State of Alabama.

Section 8. This act does not amend or modify existing laws relating to Mechanics and Materialmen liens and shall not be applicable in civil actions pursuant to Title 35, Chapter 11, Division 8, Code of Alabama 1975.

Section 9. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 10. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law. Existing contracts shall not be affected.

Approved July 24, 1995

Time: 3:46 P.M.

Act No. 95-381 H. 339 – Rep. Hooper

AN ACT

Reopening the Employees' Retirement System to allow certain active and vested members of the system to purchase certain credit in the system for service rendered to the State Economic Opportunity Office.

Be It Enacted by the Legislature of Alabama:

Section 1. (a)(1) Any member of the Employees' Retirement System of Alabama shall be eligible to receive up to 10 years of creditable service for service which was rendered between January 1, 1971, and December 31, 1983, as an employee of the State Economic Opportunity Office under the Alabama Development Office, provided that the member of the retirement system claiming the credit shall have attained not less than 10 years of contributing membership service credit, exclusive of military service credit, under the Employees' Retirement System; and, provided further, that the member performs and complies with the conditions prescribed in subdivision (2) of this subsection.

(2) A member of the Employees' Retirement System of Alabama eligible to purchase service credit in the system under paragraph a. of this subdivision, may receive credit for the prior service rendered as provided in subdivision (1) of this subsection, provided that as conditions precedent to the receipt of the credit:

a. The member shall contribute, prior to the date of his or her retirement, to the Employees' Retirement System, for each year of service credit, a percentage of his or her current annual earnable compensation or average final compensation, whichever is greater; the applicable percentage of the annual earnable compensation or average final compensation, whichever is greater, shall be the sum of the prevailing percentage rates of employer and member contributions, as required by the most recent actuarial valuation.

b. The Alabama Development Office shall certify in writing to the Employees' Retirement System that the member was an employee of the State Economic Opportunity Office during the period for which he or she is claiming service credit.

c. The member shall claim, purchase, and receive credit for the service described in paragraph b. in increments of not less than one year, unless the member's total or balance of the service described in paragraph b. is less than one year, in which event, he or she shall claim and purchase credit for the entire period.

(b) Notwithstanding the foregoing, a member shall not receive credit for the service described in subsection (a) of this section

where at the time of retirement he or she has credit or is entitled to any benefits whatsoever for the same service under any other retirement or pension plan.

Section 2. This act shall become effective October 1, 1995, upon its passage and approval by the Governor or its otherwise becoming a law.

Approved July 24, 1995

Time: 3:50 P.M.

Act No. 95-382 H. 709 – Reps. Guin, Hogan

AN ACT

Relating to Walker County; authorizing the sheriff to operate a jail store for prisoners in county custody; providing for the deposit, distribution, and auditing of monies earned; and confirming and ratifying certain prior actions.

Be It Enacted by the Legislature of Alabama:

Section 1. The Sheriff of Walker County or the authorized agents of the sheriff may operate a jail store for prisoners within the confines of the county jail. The jail store shall be operated to serve the needs of the jail population.

Section 2. (a) The sheriff shall establish and maintain a Law Enforcement Fund in a bank located in Walker County. All proceeds collected under this act shall be deposited by the sheriff into the Law Enforcement Fund.

(b) The sheriff shall keep an account of all jail store sales and transactions of the Law Enforcement Fund for annual audit by the Department of Examiners of Public Accounts. The jail store account and Law Enforcement Fund shall be audited at the same time other accounts of the sheriff are audited. The Department of Examiners of Public Accounts shall submit a copy of the audit to the sheriff within 30 days of its completion.

Section 3. All profits realized in the operation of the jail store shall be expended at the discretion of the sheriff for law enforcement purposes in Walker County that are in the interest of the public.

Section 4. The establishment of the Law Enforcement Fund and the use of the proceeds shall not diminish or take the place of any other source of income established for the sheriff or the operation of the office.

Section 5. Any actions relating to the operation of a jail store in the county jail prior to the effective date of this act are ratified and confirmed. Any existing proceeds derived from the operation of a jail store in the county jail prior to the effective date of this act shall be deposited into the Law Enforcement Fund created by this act.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 24, 1995

Time: 6:10 P.M.

Act No. 95-383 H. 351 – Reps. Baker, Carothers, Clouse, Seibenhener

AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, to provide that certain elected public officials in Houston County may participate in the Employees' Retirement System in lieu of participating in a supernumerary program or system.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

No person elected or appointed sheriff, or any elected or appointed Houston County official, may assume a supernumerary office after the effective date of this amendment. Any person who, on the effective date of this amendment, is entitled to participate in a supernumerary program may continue to participate in that supernumerary program, which shall include the assumption of a supernumerary office according to the terms and conditions of the law which established that supernumerary program. Every sheriff and elected or appointed Houston County official may participate in the Employees' Retirement System of Alabama upon the same terms and conditions as may be specified by law for any other employee in the same retirement system. Houston County officials holding office at the time of the ratification of this amendment shall be eligible to purchase service credit in the Employees' Retirement System for the time the official has served in the current office; provided, however, the official shall forego the assumption of a supernumerary office. For the purposes of this

amendment, the words "elected or appointed county official" shall include any person appointed to serve the remaining term of an elected or appointed county official, but shall not include a judge, district attorney, legislator, constable, school board member, or any official elected from a judicial circuit.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the general election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Houston County, proposing an amendment to the Constitution of Alabama of 1901, to phase-out the supernumerary system for certain elected public officials and allow them to participate in the Employees' Retirement System.

Proposed by Act _____"

This description shall be followed by the following language:

"Yes ( ) No ( )."

CONSTITUTIONAL AMENDMENT

Passed the House May 23, 1995

Passed the Senate July 25, 1995

Act No. 95-384

H. 661 – Reps. Hayden, Jackson

AN ACT

Relating to Perry County; proposing an amendment to the Constitution of Alabama of 1901; authorizing the Perry County Commission to levy a three mill ad valorem tax for fire protection.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

(a) In addition to all other ad valorem taxes levied, the Perry County Commission may levy on an annual basis, commencing with the tax year beginning October 1, 1995, an ad valorem tax on all taxable property located in Perry County at a rate of three

mills per dollar of assessed value of the taxable property, the proceeds of which shall be paid into the county general fund and distributed for the benefit of fire protection.

(b) Within 30 days of payment into the county general fund, the county commission shall pay the funds to the Perry County Association of Volunteer Fire Departments. The county association shall divide the funds equally among all eligible volunteer fire departments and the Alabama Forestry Commission at the quarterly meetings of the county association. The county commission and the county association may jointly establish rules regarding the transfer, investing, accounting, and handling of the funds.

(c) Funds paid to eligible volunteer fire departments shall only be expended for fire protection services, including training, supplies, buildings, capital improvements, and equipment. An eligible volunteer fire department shall mean a volunteer fire department located in Perry County that is certified under the guidelines of the Alabama Forestry Commission and is a member in good standing of the Perry County Association of Volunteer Fire Departments. The funds may not be expended for salaries, food, drink, social activities, or fund-raising activities. After receiving funds, the volunteer fire departments shall keep accurate records to verify that the funds were properly expended. By September 15th of each year, each department and the Alabama Forestry Commission shall file a form with the county association detailing the expenditures of all funds during the previous 12 months and setting out a schedule of all proposed projects. The filing shall also account for all unspent funds and whether the unspent funds have been obligated. The county association shall supply the accounting forms to each eligible volunteer fire department and the Alabama Forestry Commission.

(d) The Alabama Forestry Commission's share of these funds collected shall be used in Perry County only. The funds shall be used for buildings and purchase of equipment. The funds shall not be expended for salaries.

(e) Upon dissolution or abandonment of any eligible volunteer fire department, any remaining funds shall, after all indebtedness has been satisfied, be transferred to the county association.

(f) The personnel of volunteer fire departments and the Alabama Forestry Commission shall not be considered as employees, servants, or agents of the county and the members of the county commission and the employees of the county shall not be liable in either their official capacity or in a private capacity for the actions of the personnel of volunteer fire departments and the Alabama Forestry Commission.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the general election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Perry County, proposing an amendment to the Constitution of Alabama of 1901, to authorize the Perry County Commission to levy a three mill ad valorem tax for fire protection.

Proposed by Act _____"

This description shall be followed by the following language:

"Yes ( ) No ( )."

CONSTITUTIONAL AMENDMENT

Passed the House July 12, 1995

Passed the Senate July 25, 1995

Act No. 95-385

S. 647 – Senator Clay

AN ACT

To propose an amendment to the Constitution of Alabama of 1901, to provide for two elected members to the electrical utility owned by the City of Tuskegee in Macon County and to provide for stipends for certain members of the board who are not members of the city council.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, as amended, is proposed and may become valid as a part of the constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

Two persons shall be elected to the electrical utility owned by the City of Tuskegee at the same time that the mayor and city council elections are held and the elected candidates for members of the electrical utility shall qualify for office in the same manner. The election shall be conducted in the same manner as that for the election for city council. In the interim of the time between the adoption of this amendment and the mayor-city council election, the State Senator and the Alabama House Representative representing the City of Tuskegee shall each appoint a member on the

electrical utility board owned by the City of Tuskegee to serve, only during the interim period until the election. The members of the board of directors of the electrical utility who are not members of the city council shall each receive fifty dollars ($50) per meeting, not to exceed one hundred dollars ($100) per month.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, as amended, and the general election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to the City of Tuskegee in Macon County, proposing an amendment of the Constitution of Alabama of 1901, providing for two elected members to the electrical utility owned by the City of Tuskegee.

Proposed by Act _____"

This description shall be followed by the following language:

"Yes ( ) No ( )."

CONSTITUTIONAL AMENDMENT

Passed the Senate as amended July 12, 1995

Passed the House July 25, 1995

Act No. 95-386

S. 245 – Senator Ghee

AN ACT

To amend Section 16-22-9 of the Code of Alabama 1975, to further provide for the establishment of a sick leave bank plan by an educational authority under certain conditions, and to provide that an employee would be required to be a member of the sick leave bank to donate or receive catastrophic sick leave days.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 16-22-9 of the Code of Alabama 1975 is amended to read as follows:

"§16-22-9.

"(a) The following terms shall have the following meanings, respectively:

"(1) CATASTROPHIC ILLNESS. Any illness or injury certified by a licensed physician which causes the employee to be absent from work for an extended period of time.

"(2) EDUCATIONAL AUTHORITY or AUTHORITY. Each city and county board of education; the Alabama Institute for Deaf and Blind; the Department of Youth Services School District; the Alabama School of Fine Arts; the Alabama High School of Mathematics and Science; each two-year postsecondary institution under the authority and auspices of the State Board of Education.

"(3) EMPLOYEE. Any person employed by the educational authority on a full-time or part-time basis.

"(b) An educational authority, upon the request of 10 percent of its full-time certificated and full-time support personnel, shall establish a sick leave bank plan for each of the two groups either jointly or separately.

"(c) Each plan shall allow each employee to deposit an equal number of days not to exceed five days of his or her earned sick leave into the bank. The days deposited shall then be available to be loaned to any participating employee whose sick leave has been exhausted.

"(d) Upon agreement by an educational authority to establish a sick leave bank, the authority shall enact policies providing for uniform administration of the sick leave bank. Proposed rules and regulations for the operation of the sick leave bank shall be jointly developed by a committee comprised of equal numbers of representatives of the employees and the authority. Following the development of the proposed rules and regulations, the committee shall submit the proposed rules and regulations to the employees and the authority for approval. The accounting and administration of the sick leave bank shall be the responsibility of the authority. Vacancies occurring on the committee shall be filled by the respective parties. No representative on the committee shall serve for a term longer than five years.

"(e) The sick leave banks as may be established shall include the following regulations but shall not be limited only to these regulations, but no local school board shall adopt any regulation that conflicts with the general regulations:

"(1) No employee shall be allowed to owe more than 10 days more than the employee has on deposit to the sick leave bank, unless over 50 percent of the participating members of the bank vote to extend said limit.

"(2) Application for sick leave loans shall be developed by the committee.

"(3) Upon the resignation or other termination of an employee who has an outstanding loan of sick leave days, the value of the loan shall be deducted from the final paycheck and at the prevailing rate.

"(4) A contributing employee to the program shall not be allowed to accumulate more days than allowed by law, including days accumulated in the sick leave bank.

"(5) Participation in the sick leave bank shall at all times be voluntary on the part of the employee.

"(6) Any alleged abuse of the use of the sick leave bank shall be investigated by the committee and, on a finding of wrongdoing, the employee shall repay all of the sick leave credits drawn from the sick leave bank and be subject to other appropriate disciplinary action as determined by the local school board.

"(f) Employees, at their discretion, may donate a specific number of days to the sick leave bank to be designated for a specific employee who is suffering a catastrophic illness as recognized and defined by the State Board of Education. Before sick leave days for a catastrophic illness may be donated, the employee who is to receive the sick leave days shall have no sick leave days remaining. Donated days shall become available for use by the particular employee who shall not be required to repay the days. Any employee who donates sick leave days to the sick leave bank for a particular employee suffering from a catastrophic illness shall be made to understand that the donated days are not to be recovered or returned to the donor. If a particular employee does not require all of the days donated to the credit of the employee, the days shall revert to the credit of those employees who donated the days in accordance with the guidelines adopted by the sick leave bank committee as provided in this chapter. No employee may donate more than 30 sick leave days, exclusive of the provisions of subsection (c), to the sick leave bank for the catastrophic sick leave of any one employee. A sick leave bank is authorized to donate sick leave days to another sick leave bank for use by a particular employee who is suffering catastrophic illnesses. An employee shall be a member of the sick leave bank to donate or receive catastrophic sick leave days."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 25, 1995

Time: 3:00 P.M.

Act No. 95-387

H. 576 – Rep. Venable

AN ACT

Relating to Elmore County; authorizing the county commission to establish an animal control program; to provide for the appointment of animal control officers; to provide for the annual licensing of dogs and cats; authorizing the collection of fees to fund the animal control program; providing for the investigation of complaints about dangerous animals; and providing for the responsibility of animal owners for their animals.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be known as the "Elmore County Animal Owner Responsibility Act." The Elmore County Commission may establish and provide an animal control program in Elmore County or enter into contracts with other governmental or private agencies for the operation and maintenance of an animal control program. It is the intent of this legislation that each animal owner be responsible for his or her animals, both on and off his or her private property. It is not the intent of this legislation that dogs or cats be restrained in rural areas outside municipalities which have restraint laws.

Section 2. The county commission may create the classification of animal control officer in Elmore County. The animal control officer or officers shall be appointed by and serve at the pleasure of the county commission and shall administer this act, subject to rules and regulations promulgated by the county commission. The animal control officer or officers shall also perform other duties as may be required by law or by the county commission.

Section 3. Each dog and cat in Elmore county shall be licensed annually or for another period of time as established by the county commission. The Elmore County Commission may establish a fee which shall not exceed five dollars ($5) annually. Each owner of a dog or cat shall be required to display a current rabies vaccination tag or other distinctive item, which shall also serve as a license, on a collar attached to the animal. Any dog or cat not having a license and whose owner cannot be determined, shall be taken into custody and retained for seven days before its disposal, either by adoption or euthanasia in accordance with the procedure of Section 5 of this act. The county commission may establish a fee, in addition to boarding costs, to reclaim an animal within the seven-day period. The fee shall not exceed ten dollars ($10) for spayed animals and twenty dollars ($20) for unspayed animals. Any fees established shall be in addition to all other fees established by law.

Section 4. The county commission shall by resolution provide for the collection of the fee provided by this act. All fees collected pursuant to this act shall be deposited into a separate fund in Elmore County to be used solely for an animal control program established by this act. Any municipality which operates its own animal control program within the city limits and police jurisdiction may request in writing that the county animal control officers have no jurisdiction in that area, and further request that fees collected involving animals from the city and its police jurisdiction be paid to the city to finance the program.

Section 5. Complaints about dangerous or vicious animals shall be investigated by animal control officers. Where the owner of an animal about which a complaint has been received can be identified, the owner shall be notified in person, by phone, or by the U.S. Postal Service with return receipt requested, and provided an opportunity to respond to the complaint. When any animal is determined by an animal control officer to be a threat to other animals or persons and the owner refuses to make every possible effort to remove the threat, the animal control officer shall notify the county commission which may authorize the county attorney to seek remedy through the district court of the county. The district court may, after hearing evidence from both the complainant and the animal owner, issue an order to remove the threat in the manner it determines necessary.

Section 6. Animal control officers appointed pursuant to this act shall be knowledgeable in Alabama laws pertaining to animals, and shall provide information to the general public as to the rights and responsibilities of animal owners.

Section 7. This act is supplemental to all other laws pertaining to animals contained in Title 3, Code of Alabama 1975.

Section 8. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 9. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 25, 1995

Time: 3:01 P.M.

Act No. 95-388

H. 773 – Rep. White

AN ACT

Relating to the Twenty-First Judicial Circuit of Alabama and the establishment of a Pre-Trial Diversion Program by the District Attorney.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) The District Attorney of the Twenty-First Judicial Circuit of Alabama may establish a Pre-Trial Diversion Program.

(b) The district attorney shall retain all discretionary powers endowed by the common law and provided for by statutes and acts of this state or powers or discretion otherwise provided by law for the District Attorney of the Twenty-First Judicial Circuit.

(c) The Pre-Trial Diversion Program shall be under the direct supervision and control of the district attorney and the district attorney may contract with any agency, person, or corporation for services related to this act. The district attorney may employ necessary persons to accomplish this act and these persons shall serve at the pleasure of the district attorney.

Section 2. (a) A person charged with a criminal offense specified in this subsection whose jurisdiction is in the circuit or district court of the Twenty-First Judicial Circuit of Alabama may apply to the District Attorney of the Twenty-First Judicial Circuit for admittance to the Pre-Trial Diversion Program. A person charged with any of the following offenses may apply for the program:

(1) Drug offenses as provided in Section 12-23-5 of the Code of Alabama 1975.

(2) Property offenses.

(3) Offenses wherein the victim did not receive serious physical injury.

(4) Offenses in which the victim was not a child under 14 years of age, a law enforcement officer, a school official, or a correctional officer.

(5) All misdemeanors other than traffic or conservation offenses.

(b) No persons charged with a Class A felony or a crime that involved serious injury to a person or death shall be eligible for pre-trial diversion.

(c) Any person deemed by the district attorney to be a threat to the safety or well-being of the community shall not be eligible for the Pre-Trial Diversion Program.

Section 3. (a) Diversion shall be appropriate if:

(1) The offender is 18 years of age or older at the time the alleged offense was committed.

(2) There is a likelihood justice will be served if the offender is placed in the diversion program.

(3) It is determined the needs of the State and of the offender can be met through the Pre-Trial Diversion Program.

(4) The offender poses no substantial threat to the safety and well-being of the community.

(5) It appears the offender is not likely to be involved in further criminal activity.

(6) The offender will likely respond to rehabilitative treatment.

(b) The district attorney may waive any of the standards specified in subsection (a) if justice or special circumstances dictate.

Section 4. (a) Prior to being admitted to the Pre-Trial Diversion Program or as a part of the district attorney's evaluation process, an applicant may be required by the district attorney to furnish information concerning past criminal history, educational history, work record, family history, medical or psychiatric treatment or care received, psychological test taken, and any other information concerning the offender which the district attorney feels has a bearing on the decision as to whether or not the offender should be admitted to the Pre-Trial Diversion Program.

(b) The district attorney may require the offender to submit to any type of test or evaluation process or interview the district attorney deems appropriate in evaluating the offender for admittance into the Pre-Trial Diversion Program. The costs of any test or evaluation shall be paid by the offender or as otherwise agreed to or provided for by this act.

Section 5. (a) An offender who enters an intervention program shall satisfy each of the following requirements:

(1) Waive, in writing, and contingent upon the successful completion of the program, his or her right to a speedy trial.

(2) Agree, in writing, to the tolling, while in the program, of periods of limitations established by statute or rules of court.

(3) Agree, in writing, to the conditions of the Pre-Trial Diversion Program established by the district attorney.

(4) If there is a victim of the crime, agree in writing to a restitution agreement within a specified period of time and in an amount to be determined by the district attorney taking into account all circumstances of the offender and victim.

(b) Pre-Trial Diversion Program records or records related to Pre-Trial Diversion Program admission shall not be admissible in subsequent proceedings, criminal or civil, and communications between Pre-Trial Diversion Program counselors and defendants shall be privileged unless a court of competent jurisdiction determines there is a compelling public interest that the communications be revealed.

Section 6. (a) An offender shall make application to the Pre-Trial Diversion Program no later than 45 days after service of the warrant or within 21 days following appointment of counsel for the charge for which the offender applies or at his or her first court appearance.

(b) In the discretion of the district attorney, the time provision of this section may be waived.

Section 7. (a) An applicant may be assessed a fee of not more than five hundred dollars ($500) when the applicant is approved for the program. The amount of the assessment for participation in the program shall be set from time to time by the district attorney. The assessment shall be in addition to any court costs and assessments for victims or drug or alcohol treatment required by law, and are in addition to costs of supervision, treatment, and restitution for which the person may be responsible. Fees may be waived by the district attorney because of circumstances relating to a specific offender and the financial status of the offender. A schedule of payments for any of these fees may be established by the district attorney.

(b) Fees collected pursuant to this section shall be deposited by the district attorney into the District Attorney's Fund and used for law enforcement as provided by law.

Section 8. The district attorney and the offender may enter into an agreement as a part of the Pre-Trial Diversion Program of an offender that the offender be admitted to a drug or alcohol program on an in-patient or out-patient basis or receive other treatment alternatives for substance abuse. The district attorney may require the offender to submit to periodic or random drug testing as a part of the Pre-Trial Diversion Program of the offender and other terms and conditions related to substance abuse as the district attorney may direct. The offender shall pay the costs of all services unless otherwise agreed.

Section 9. (a) In any case in which an offender is admitted into a Pre-Trial Diversion Program, there shall be a written agreement between the district attorney and the offender. The agreement shall include the terms of the Pre-Trial Diversion Program, the length of the program, and the period of time after which the district attorney will dispose of the charges against the offender in a non-criminal manner or what charges the defendant will plead guilty to and the sentence the offender will receive. If as part of the Pre-Trial Diversion Program, the offender agrees to plead guilty to a particular offense and receive a specific sentence, this agreement concerning the offense and sentence shall be approved by an appropriate Circuit or District Judge of the Twenty-First Judicial Circuit prior to admission of the offender in the Pre-Trial Diversion Program.

(b) As a condition of being admitted to the Pre-Trial Diversion Program, the district attorney may require the offender to agree to any of the following terms or conditions:

(1) Attend school, including, but not limited to, high school, college, job training school, trade school, or adult basic education courses.

(2) Learn to read and write.

(3) Financially support his or her children or pay child support.

(4) Refrain from the use of alcohol or drugs or frequenting places where alcohol or drugs are sold or used.

(5) Refrain from contact with certain persons or premises.

(6) Maintain or seek employment.

(7) Attend counseling (individual, group, or family).

(8) Pay restitution to a victim if any is due.

(9) Pay court cost and fines.

(10) Pay supervision fees and application fees pursuant to this act.

(11) Observe curfews or home detention or travel constraints as set out in the offender's agreement.

(12) Enter into an agreement with the district attorney to have restitution, court cost, fines, fees, or child support withheld from the wages or salary of the offender and applied to the restitution.

(c) The offender shall be subject to other terms or conditions as the district attorney and the offender may agree to in the written agreement of the offender, it being the purpose of this act to allow

the district attorney broad discretion in designing a program specifically for each offender and circumstances of the offender.

Section 10. The district attorney shall establish a Pre-Trial Diversion Fund. All fees paid by offenders as set out in this act to the district attorney shall be placed into the Pre-Trial Diversion Fund. The district attorney shall use the funds to pay costs associated with the administration of the Pre-Trial Diversion Program or for other law enforcement purposes. Costs associated with program administration shall include, but shall not be limited to, salaries, rent, vehicles, telephones, postage, office supplies and equipment, training and travel services, service contracts, and professional services. The district attorney may pay for services or programs for an offender while the offender is in the Pre-Trial Diversion Program if special circumstances and justice dictate.

Section 11. (a) If the offender violates the conditions of the Pre-Trial Diversion Program agreed to in writing by the offender and the district attorney, the district attorney may terminate the participation of the offender in the program and pursue criminal charges against the offender. The offender shall be given written notice of the intent of the district attorney to terminate him or her from the Pre-Trial Diversion Program.

(b) The district attorney may waive a violation for good cause shown why the offender should stay in the Pre-Trial Diversion Program.

Section 12. The provisions of this act are severable and if any part of this act should be declared unconstitutional or unenforceable, the remaining provisions of this act shall remain intact.

Section 13. The provisions of this act shall become effective upon this act being signed by the Governor or this act otherwise becoming law.

Approved July 25, 1995

Time: 3:02 P.M.

Act No. 95-389

H. 65 – Reps. Page, Morrow, Hill

AN ACT

Relating to the Department of Public Safety; to establish the Public Safety Motor Vehicle Replacement Fund to replace the Department of Public Safety law enforcement motor vehicles and to provide for an appropriation to the Department of Public Safety from the Public Safety Motor Vehicle Replacement Fund in the amount of two million dollars ($2,000,000) for the fiscal year ending September 30, 1996.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby created in the State Treasury the Public Safety Motor Vehicle Replacement Fund of the Alabama Department of Public Safety. This fund shall assist in providing the necessary funds to replace the Department of Public Safety law enforcement motor vehicles. Vehicles purchased from funds appropriated from the Public Safety Motor Vehicle Replacement Fund shall be used specifically for law enforcement purposes. None of the funds appropriated from this fund may be expended by the Department for salaries nor for any purpose other than the purchase of law enforcement vehicles.

Section 2. Any funds created from depreciation, equipment replacement allowance, and salvage value for replacement of law enforcement motor vehicles in the department shall be deposited in the Public Safety Motor Vehicle Replacement Fund created pursuant to Section 1 of this act; however the expenditure of any monies appropriated from this fund shall be budgeted and allotted pursuant to the Budget Management Act and Article 4 of Chapter 4 of Title 41 of the Code of Alabama 1975. These funds shall not revert at the end of each fiscal year, but shall be carried over to each succeeding fiscal year.

Section 3. The Department of Public Safety may not transfer automotive vehicles from law enforcement personnel nor vehicles designated for law enforcement purposes to other personnel in that department nor shall vehicles be transferred to be used for any other purpose in that department nor transferred to any other state agency. Whenever the Department of Public Safety intends to purchase vehicles, the Director shall provide written notification to the Director of Finance, the Chairman of the House Committee on Ways and Means, and the Chairman of the Senate Committee on Finance and Taxation-General Fund at least ten (10) days prior to the purchase. Such notification shall include the number of vehicles, the cost of those vehicles and the designated purpose for those vehicles.

Section 4. Any other provisions to the law contrary notwithstanding, the Director of the Department of Public Safety shall be responsible for the disposal of any Department of Public Safety law enforcement vehicle. Such vehicle shall be sold by the Director or his designee either at public auction or by a negotiated sale by the Department of Public Safety to any other state department or agency. Any state department or agency may negotiate for the purchase of the vehicle for their use in compliance with state law.

Every proposal to make a sale at public auction shall be advertised for at least two weeks in advance of the date fixed for the

auction. Such advertisement shall appear at least once a week for two consecutive weeks in a newspaper of general circulation in the county where the sale is to be made, and a copy of such proposal shall simultaneously be posted on a readily accessible public bulletin board at the main office of the Department of Public Safety. Advertisements for auctions shall state the item or items to be sold, by class and description, where the property is located and the dates, time, and place the property may be inspected. The advertisements shall further state the date, time, and place of auction. All property advertised under the provisions of this section shall be available for inspection during the normal state office hours, and at whatever place advertised for at least 48 hours prior to sale.

All property sold under the provisions of this section shall be paid for by the purchaser or his representative by cashier's check, bank draft, certified check, U.S. currency, or notarized bank letter stating that the holder may purchase surplus property and also stating a maximum amount, at the time of acceptance of bid and award of contract, and said removal shall be not later than seven days after the awarding of the contract.

No officer or employee of the state of Alabama or any of its departments, boards, bureaus, commissions, institutions, corporations, or agencies shall act as agent for any bidder; provided, however, that such officers or employees shall not be excluded from bidding on or purchasing state property at public sale.

Any sale made in violation of the terms of this section shall be null and void, and the person or persons responsible for the violation shall be subject to liquidated damages of not less than $1,000.00 nor more than $10,000.00, which may be recovered for the state of Alabama by the Attorney General by civil action in the circuit court of Montgomery county. Any moneys recovered by the Attorney General under this section shall be deposited into the State General Fund.

All proceeds from sales made under the provisions of this act, whether at public auction or by negotiation, shall be paid into the Public Safety Motor Vehicle Replacement Fund.

Section 5. The funds designated by this bill to be deposited to the Motor Vehicle Replacement Fund are intended to be in addition to the $3.5 million transferred annually to the Department of Public Safety from the Public Road and Bridge Fund pursuant to Act 91-797. Effective October 1, 1995 funds transferred to the Department of Public Safety pursuant to Act 91-797 shall be expended for the purchase of equipment for traffic law enforcement, as provided by that act. Such equipment shall include motor vehicles and related equipment only.

Section 6. In addition to any and all other funds heretofore or hereinafter appropriated to the Department of Public Safety, there is hereby appropriated the sum of two million dollars ($2,000,000) from the Motor Vehicle Replacement Fund for the fiscal year ending September 30, 1996.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 25, 1995

Time: 3:04 P.M.

Act No. 95-390 H. 377 – Reps. Millican, Turner, McMillan, Hooper, Hilliard, Letson

AN ACT

To amend Section 41-9-644, Code of Alabama 1975, relating to the inspection of a criminal offender's records in the possession of the Alabama Criminal Justice Information Center, to increase the fee for the inspection.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 41-9-644, Code of Alabama 1975, is amended to read as follows:

"§41-9-644.

"Agencies, including ACJIC, at which criminal offender records are sought to be inspected may prescribe reasonable hours and **places of inspection and may impose additional procedures, fees,** not to exceed twenty-five dollars ($25), or restrictions, including fingerprinting, as are reasonably necessary to assure the records' security, to verify the identities of those who seek to inspect them, and to maintain an orderly and efficient mechanism for these accesses.

"All fees collected shall be forwarded to the state general fund."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 25, 1995

Time: 3:05 P.M.

Act No. 95-391 H. 401 – Reps. Petelos, Curry

AN ACT

To amend Section 8-8-11 of the Code of Alabama 1975, to provide that when a partial payment is made on a judgment for child or spousal support, including medical support, the payment shall be applied first to the principal due and the balance of the payment, if any, would be applied to the payment of the interest.

Be It Enacted by the Legislature of Alabama:

Section 1. It is the intent of the Legislature that when a partial payment is made on a judgment for child or spousal support, including medical support, the payment shall be applied first to the principal with any balance being applied to the interest.

Section 2. Section 8-8-11, Code of Alabama 1975, is amended to read as follows:

"§8-8-11.

"Except as provided in this section, when partial payments are made, the interest due is first to be paid and the balance applied to the payment of the principal. In the case of a judgment for child or spousal support, or a judgment for medical support of a child or spouse, any partial payment shall be applied first to the principal, and the remaining balance, if any, shall be applied to the interest."

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 25, 1995

Time: 3:06 P.M.

Act No. 95-392 H. 829 – Rep. Parker (P)

AN ACT

Relating to Morgan County; amending Section 3 of Act No. 380, S. 556, 1976 Regular Session (Acts 1976, p. 480), relating to the membership of the Morgan County Board of Education and filling of vacancies on the board; providing that vacancies occurring during the first 16 months of the term of the member shall be filled by election rather than by appointment of the remaining board members; providing for interim appointments; and providing for the effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 3 of Act No. 380, S. 556, 1976 Regular Session (Acts 1976, p. 480), is amended to read as follows:

"(a) Members of the board shall take office at the first regularly scheduled meeting of the board following their election in November. They shall qualify and be removed in the same manner as prescribed in Chapter 8 of Title 16 of the Code of Alabama 1975, of the Laws of Alabama for County Board of Education.

"(b) All members of the board shall be, at the time of their election or appointment, and during their continuance in office, qualified electors of Morgan County and of the district from which they are elected or appointed. The members of the board shall elect a chairman from among themselves, and, after the 1976 general election, any four members of the board shall constitute a quorum for the transaction of business.

"(c) Any vacancy on the board occurring during the first sixteen months of the term shall be filled at the next county-wide election. In the interim before its election, the board shall appoint a person to the board from the same district as the original appointment to serve until the election. The election shall be held in the same manner as the original election for the district seat vacated. Any vacancy on the board occurring after the first sixteen months of the term shall be filled by the remaining members of the board in the same manner as prescribed by Section 16-8-6 of the Code of Alabama 1975."

Section 2. This act shall become effective on ratification of the local constitutional amendment proposal that would provide for the Legislature, by local law, to fill vacancies occurring on the Morgan County Board of Education within the first sixteen months of the term of the office of a member of the board, enacted during the current term of the Legislature.

Approved July 25, 1995

Time: 3:07 P.M.

Act No. 95-393 H. 591 – Rep. Venable

AN ACT

Relating to Elmore County; to provide for the imposition of fees for fire protection and other related services; to provide for definitions; to provide for eligibility guidelines for receipt of the funds; to provide for the collection and use of the funds; to provide for alteration of fire districts; and to provide for exemptions.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be operative only in Elmore County.

Section 2. It is the intent of the Legislature to provide for the financing of a system for fire protection, fire prevention, emergency medical services, and related services and facilities for the benefit of the inhabitants of the county in areas in which the services and facilities might not otherwise be available. This act shall be liberally construed in conformity with this intent.

Section 3. As used in this act, the following words and phrases shall have the following meanings.

(1) ASSOCIATION. The Elmore County Firefighters Association.

(2) AUTHORIZING AMENDMENT. Amendment No. 567 of the Constitution of Alabama of 1901, as amended, proposed by Act No. 94-483 enacted at the 1994 Regular Session of the Legislature and ratified in the November 1994 General Election.

(3) CODE. The Code of Alabama 1975, as amended.

(4) COMMERCIAL BUILDING. Any building that contains one or more separate business enterprises that purchase and display a business license applicable to the business enterprise. In the case of a commercial building with more than one business located in a building, a separate fee shall be assessed on the building for each business located in the building, but in no case shall a fee be assessed more than one time on the same space.

(5) COMMISSION. The Elmore County Commission or other governing body of the county.

(6) COUNTY. Elmore County, Alabama.

(7) DEPARTMENT. Any volunteer fire department with which the Elmore County Firefighters Association may enter into agreements with respect to providing fire protection, fire prevention, and related services and facilities within the county.

(8) DISTRICT. A fire fighting district established by the Elmore County Firefighters Association.

(9) DWELLING. Any occupied or unoccupied building, structure, or other improvement to real property used or expected to be used as a dwelling for one or more persons, including specifically but not limited to the following:

(a) Any building, structure, or improvement assessed for purposes of state and county ad valorem taxation as single family owner occupied residential property.

(b) Any other residential building with each residential unit considered a separate dwelling.

(c) Any mobile home, house trailer, or unit of manufactured housing.

(10) FIRE PROTECTION FEE. A fee for fire protection and emergency medical services levied by the commission pursuant to the authorizing amendment and this act.

(11) JUDGE OF PROBATE. The Judge of Probate of Elmore County.

(12) MUNICIPALITY. An incorporated city or town.

(13) OWNER. A person owning one or more dwellings or commercial buildings.

(14) REVENUE COMMISSIONER. The Revenue Commissioner of Elmore County.

(15) STATE. The State of Alabama.

Section 4. The commission is authorized to collect beginning October 1, 1995, and each successive year in all districts, a fire protection fee with respect to each dwelling and commercial building located within the boundaries of each district. The fee shall be levied, collected, and administered as closely as possible at the same time and in the same manner as state ad valorem taxes. The fee shall not exceed twenty-five dollars ($25) per dwelling and fifty dollars ($50) per commercial building, and it shall be paid by the owner of the dwelling or commercial building.

Section 5. To be eligible to receive proceeds from the fire protection fee, each department shall be a member in good standing in the Elmore County Firefighters Association. For the purpose of this act, "good standing" is defined as being current on all association dues, being incorporated as a volunteer non-profit organization, having a bonded official responsible for the use of any proceeds of the fire protection fee, and being recognized by the Alabama Forestry Commission as a volunteer fire department. Departments not in good standing may be subject to withholding of proceeds from the fire protection fee until their good standing status has been restored. Upon the dissolution or abandonment of any eligible department, remaining proceeds, assets purchased with proceeds, and future proceeds from the fire protection fee shall be divided among the departments that take over coverage of the territory of the dissolved department after all outstanding financial obligations have been satisfied.

Section 6. Proceeds from the fire protection fee shall be used at the discretion of the individual department for fire protection, fire prevention, and emergency medical services to include, but not

be limited to, fire or emergency medical equipment, fire or emergency medical supplies, training, buildings, capital improvements, insurance, dues, and professional services. The proceeds shall not be used for salaries, entertainment, or fund-raising purposes. Any proceeds from the fire protection fee that are unexpended or not appropriated at the end of the fiscal year shall remain in the individual department's treasury for appropriation and use during any fiscal year thereafter. After receiving the proceeds, the departments will keep accurate records to verify that the funds are properly used. In January of each year that proceeds were received in the prior year, each department shall submit a financial report to the association detailing the expenditures of proceeds from the fire protection fee for the prior year. Forms for this report shall be provided by the association and shall be in compliance with requirements of the Examiners of Public Accounts Office. The association will provide the same financial report on all proceeds from the fire protection fee that it has expended in the prior year. The association shall provide these records to the Examiners of Public Accounts Office and the commission. The reports shall be public record.

Section 7. The association may, after approval by a majority vote of member departments in good standing, establish and define the boundaries of one or more districts within the boundaries of the county for purposes of collection and distribution of the fire protection fee. Upon creation of a district or districts, the association shall, within a reasonable period of time, file in the office of the judge of probate a description or map clearly showing the boundaries of the districts. Municipalities may establish their own districts at the discretion of the governing body of each municipality. Municipal districts will include the corporate limits and police jurisdiction unless the governing body of the municipality elects not to provide fire protection services in the police jurisdiction and notifies the association, in writing, for purposes of collection and distribution of the fire protection fees.

Section 8. The association may, with the consent of the affected district or districts and approval by a two-thirds majority vote of member departments in good standing, alter the boundaries of any district. The alteration may include, but not be limited to, consolidation of territory of one or more districts, creation of a new district from one or more existing districts, or exclusion of territory from a district. No alteration shall be used to relieve any department of any financial obligations incurred or made prior to the change. Municipalities may alter their districts to include or exclude the police jurisdiction, at the discretion of the governing body of each municipality, and shall notify the association, in

writing, for purposes of collection and distribution of the fire protection fee.

Section 9. If the annexation of territory in a district by an existing municipality or the creation of a new municipality takes in the property on which an existing fire station is located or reduces the size of the district so that the association, after approval by a majority vote of member departments in good standing, determines that the remaining territory is not of sufficient size to continue to support a department, the association shall request the municipality to assume any indebtedness or financial obligations of the department, provided the department transfers ownership of the fire station and department-owned equipment to the municipality.

Section 10. The following are exempt from the fire protection fee levied by this act:

(1) A dwelling or commercial building which is owned by the federal government, or the state, a county, or a municipality.

(2) A commercial building used or to be used for religious, educational, or charitable purposes.

(3) A dwelling where the owner is currently exempt from paying all ad valorem taxes based on the age, income, or disability of the owner.

Section 11. The revenue commissioner shall collect the fire protection fee from owners of dwellings and commercial buildings. The judge of probate shall collect the fire protection fee from the owners of mobile homes, house trailers, and units of manufactured housing at the time of issuance or renewal of yearly decals. The revenue commissioner and judge of probate shall keep proceeds from the fire protection fee separate and apart from all other funds and maintain clear and distinct account showing the amount paid. The revenue commissioner and judge of probate shall not accept partial payment of the fire protection fee. The officials collecting or assessing the fire protection fee shall be entitled to the same fees and compensation as provided for collecting and assessing ad valorem taxes. The proceeds of the fire protection fee shall be paid into the general fund of the county. Within 30 days after payment into the general fund, the commission shall pay the funds to the Elmore County Firefighters Association. The commission shall also include a report detailing the exact amount collected from each district so that the association may disburse the proceeds according to a percentage based upon the proceeds collected in each district. The association shall retain five percent of the gross proceeds from each district to be used, after approval by a majority

vote of member departments in good standing, for the construction of a countywide training facility, appropriate equipment for the maintenance and expenses of the facility, and other countywide training activities. These proceeds shall be administered by the association in compliance with all applicable requirements of the Office of Examiners of Public Accounts.

Section 12. In case of default in the payment of the fire protection fee, the revenue commissioner and judge of probate shall provide a list of delinquent accounts within a reasonable period of time after January 1 of each year the fire protection fee is collected, separated by district, to the association, and it shall provide the list to each district which may pursue all legal remedies as specified by law to recover the delinquent accounts.

Section 13. The personnel of volunteer fire departments provided for in this act shall not be considered employees, servants, or agents of the county and the members of the commission and the employees of the county shall not be liable in either their official capacity or in a private capacity for the actions of the personnel of volunteer fire departments.

Section 14. All laws and parts of laws that are in conflict with any of the provisions of this act shall be, to the extent of such conflict, repealed.

Section 15. The provisions of this act are severable. If any portion of this act should be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any of the remaining portions of this act, which shall continue effective.

Section 16. This act shall become effective upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved July 25, 1995

Time: 3:10 P.M.

Act No. 95-394 H. 454 – Reps. Haney, Papucci, Hinshaw, Allen, Payne, Hawkins, Morton, Carns

AN ACT

To exempt Habitat for Humanity Organizations and West Alabama Youth Services, Inc., (WAYS) from the payment of all state, county, and municipal sales and use taxes and to exempt all property owned and used by these organizations from any state, county, and local ad valorem taxes.

Be It Enacted by the Legislature of Alabama:

Section 1. Habitat for Humanity Organizations and West Alabama Youth Services, Inc., (WAYS) are exempted from paying state, county, and municipal sales and use taxes and all property owned and used by the organization is exempted from state, county, and local ad valorem taxation.

Section 2. This act shall become effective on the first day of the second month following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 25, 1995

Time: 4:00 P.M.

Act No. 95-395

H. 149 – Reps. McMillan, Dukes, Penry, Laird, Dolbare, Layson, Hamilton, Collins, Reed

AN ACT

To amend Section 11-52-77 of the Code of Alabama 1975, so as to provide an alternative procedure which could be used by municipal governing bodies in adopting zoning ordinances or amendments thereto.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11-52-77, Code of Alabama 1975, is amended to read as follows:

"§ 11-52-77.

"No ordinance shall be passed by any municipal corporation under the authority of this article unless and until the municipal governing body has complied with the procedures set forth in either subsection (A) or subsection (B) of this section.

(A) Prior to adoption, the proposed ordinance shall be published in full for one insertion and an additional insertion of a synopsis of the proposed ordinance, one week after the first insertion, which synopsis shall refer to the date and name of the newspaper in which the proposed ordinance was first published; both such insertions shall be at least 15 days in advance of its passage and in a newspaper of general circulation published within the municipality, or, if there is no such newspaper, then by posting the proposed ordinance in four conspicuous places within the municipality, together with a notice stating the time and place that the ordinance is to be considered by the municipal legislative

authorities and stating further that at such time and place all persons who desire shall have an opportunity of being heard in opposition to or in favor of such ordinance.

(B) Prior to adoption, notice that an ordinance will be considered shall be published for three consecutive weeks in a newspaper of general circulation in the county. The notice shall include the following information:

(1) a provision that an ordinance proposing to zone or rezone property will be considered by the municipal governing body pursuant to this section and that a copy of the proposed ordinance is available for public inspection at the city or town hall;

(2) the location of the city or town hall;

(3) a map showing the location of the property;

(4) a general description of the property proposed to be zoned or rezoned including the common name by which the property is known; and

(5) the time and place where all persons may be heard in opposition to or in favor of the ordinance.

The notice required by this subdivision shall be published in the legal section of the publication in standard form. In addition, the same notice shall also be published one time in the regular section of the newspaper which notice shall be in the form of at least a one-quarter page advertisement.

"(C) No such ordinance shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard."

Section 2. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 25, 1995

Time: 3:11 P.M.

Act No. 95-396 H. 749 – Reps. McDaniel, White, Clark (J), Carter, Starkey, Drake, Hooper, Sanderford, Vance, Black (L),

Knight (A), Burke, Hawk, Hammett

AN ACT

Relating to county roads; to establish the Rural Access Program; to provide definitions; to describe the sources of revenue for the program; to provide the distribution and appropriation of revenues for the Rural Access Program; to provide for the use of the funds; to provide that appropriations for the Rural Access Program are capital outlay appropriations; to provide that Rural Access Program Funds shall be matched by county funds and that they may be used for a portion of the county matching share of any federally funded county projects; to provide for obligation limitations; to provide that the Transportation Director shall have sole authority to promulgate rules and regulations for the operation of the Rural Access Program; to provide that the Department of Transportation shall specify design criteria for county projects; to provide that county projects shall be approved by the Department of Transportation; to provide that any county eligible for aid under this act shall have a professional licensed county engineer; to provide that the county shall furnish project design, supervision of construction, and acquisition of right-of-way for county projects at the expense of the county; to provide that county projects shall be let to contract by the Department of Transportation; to provide that unobligated funds shall revert and be redistributed to other counties at the end of a three fiscal year period; to provide that any county road projects constructed pursuant to this act shall be maintained by the county and shall meet maintenance standards established by the Department of Transportation or further funding pursuant to this act shall be withheld; to provide that if a house bill whose purpose is to strengthen gasoline and motor fuel tax laws to eliminate fuel tax evasion does not become law, this act shall not become effective.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be known as the Rural Access Program Act (RAP).

Section 2. Where used in this act, the following words shall have the following meanings:

(1) BRIDGE REPLACEMENT. Bridge replacement includes the replacement of existing bridge structures and, if necessary, the realignment of the adjacent approaches. If the route is to be four-laned, it includes the construction of a new bridge for the two new lanes.

(2) CONSTRUCTION, CONSTRUCT, OR CONSTRUCTING. The act of completing a project. The physical building of the roadway, bridges, and appendages thereto.

(3) COUNTY ROADS. All paved or unpaved public roads, including bridges, within a county on the county road system and continuing into or through the corporate limits of any city or town in a county which are not a part of the state highway system.

(4) DEPARTMENT OF TRANSPORTATION. That state department created by Section 23-1-20 of the Code of Alabama, 1975.

(5) OBLIGATION LIMIT. That point in obligating or budgeting funds for projects that the Transportation Director may not exceed by approving any additional funding for projects.

(6) PROJECT. An undertaking to construct a particular portion of a highway.

(7) RESURFACING, RESTORATION, AND REHABILITATION (RRR). Work undertaken primarily to preserve an existing facility. Restoration and rehabilitation is considered to be work required to return the existing pavement or bridge deck, including shoulders, to a condition of adequate structural support or to a condition adequate for placement of an additional state of construction (bridge deck protective system or resurfacing). Resurfacing consists of the placement of additional surface material over the existing, restored, or rehabilitated roadway or bridge deck to improve service-ability or to provide additional strength. RRR work may include changes to geometric features, such as widening, flattening curves, or improving sight distances.

(8) TRANSPORTATION DIRECTOR. The chief executive officer of the Department of Transportation authorized by Section 23-1-21 of the Code of Alabama 1975.

(9) UNOBLIGATED FUNDS. That portion of an appropriation which has not been encumbered by a project budget or a project budget overrun.

Section 3. (a) There is created within the State a program to be known as the Rural Access Program.

(b) The following revenues sources shall be allocated for use of the Rural Access Program.

(1) Motor fuel taxes distributed to the Department of Transportation and deposited in the Public Road and Bridge Fund under the provisions of Sections 40-17-13 and 40-17-222 of the Code of Alabama 1975, in excess of 105 percent of the base year receipts, compounded annually. Fiscal year 1994-95 is the base year. Any motor fuel tax receipts that exceed 105 percent of the base year receipts compounded annually shall be allocated to the Rural Access Program for allocation to the 67 counties of the state.

(2) Other funds including, but not limited to, matching funds provided by counties.

(c) Allocation of the revenue received shall be as follows:

(1) Other funds shall be allocated and appropriated for the purposes for which they were received.

(2) Motor Fuel taxes shall be allocated to the accounts of the 67 counties within the Rural Access Program by dividing 45.46 percent of the motor fuel tax receipts equally and the remaining 54.54 percent shall be allocated based on the ratio of the population of each county to the total population of the state according to the next preceding federal decennial census or any special federal census heretofore held in any county subsequent to the effective date of the 1990 Federal Decennial Census. The allocation provided for in this subsection shall be made by the Department of Transportation on or prior to the tenth day of each month with respect to receipts of Motor Fuel tax allocated to the Rural Access Program by the Department of Transportation during the preceding month.

(d) Funds allocated and appropriated for county roads shall be used to improve existing paved roads, to pave dirt roads, and for bridge replacement, but not for routine maintenance. Notwithstanding the foregoing, the portion of funds all counties may receive pursuant to this subsection shall be limited to 30 percent of the total amount of the base year receipts compounded annually pursuant to subdivision (1).

(e) Funds allocated to each county in subsection (c) of this section are for the purpose of improving existing paved county roads, paving dirt roads, and county bridge replacement.

(f) Appropriations for the Rural Access Program are capital outlay appropriations and do not revert at the end of the fiscal year, but shall remain in full force and effect until the purpose for which they were appropriated is either abandoned or completed.

(g) The cost of construction of county road projects shall be paid as follows: 20 percent of the cost shall be paid by the county from its own funds and 80 percent of the cost shall be paid from the funds allocated to the county pursuant to this section. The Transportation Director shall not cause a county project to be awarded to contract until the county share, 20 percent, of the project funding has been received by the Department of Transportation and the Rural Access Program share, 80 percent, has been allocated to the Rural Access Program.

(h) The county matching share for any federally funded county projects may be funded from funds allocated to the county in subdivision (2) of subsection (c) of this section as follows: 50 percent from the Rural Access Program and 50 percent from funds available to the county from other sources.

(i) Each county shall not obligate any more than 90 percent of the current revenue from the year allocated and appropriated to that county plus any unobligated funds carried over from the previous years. The 10 percent reserve created by this obligation limit may be used to cover overruns when matched as provided in subsections (g) and (h) of this section.

(j) The Transportation Director shall have sole authority to promulgate rules and regulations for the operation of the rural access program.

(k) The Department of Transportation under the direction of the Transportation Director shall specify design criteria for county projects.

(l) Any county, by proper resolution of its governing body, may make application to the Department of Transportation for aid in the construction of county roads. The Department of Transportation shall investigate and approve or disapprove the application. Upon approval of an application, the county engineer of the county so applying shall make a survey and prepare the plans and specifications at county expense as the Department of Transportation may require, and submit the plans and specifications to the Department of Transportation for approval.

(m) Any county to be eligible for aid under this act shall have a county engineer as provided by any general or local act under which a professional licensed engineer is employed and approved by the Department of Transportation.

(n) All construction and work done pursuant to this act and the purchase of materials and employment of labor shall be subject to periodic and final inspection, approval, and acceptance by the Department of Transportation. The county engineer shall have immediate supervision of the construction at the expense of the county.

(o) The county shall, at its own expense and without expense to the Department of Transportation, procure the right-of-way for the roads and the cost of right-of-way shall not be taken or considered as a part of the cost of construction. All deeds or other muniments or other evidence of title for right-of-way shall be filed and recorded in the office of the judge of probate of the county prior to the beginning of any construction of the roads.

(p) County projects shall be let to contract by the Department of Transportation.

(q) Each county may accumulate up to three fiscal years of revenue. At the end of each fiscal year any unobligated funds in excess of the past three fiscal years total revenue for each county shall be lost by that county. The funds shall be redistributed to all counties who have not lost funds for that fiscal year. The Transportation Director may extend the time period a county can accrue unobligated funds if it is being done for the purpose of accumulating funds for a major project.

Section 4. Any county road constructed with Rural Access Program funds under this act shall be maintained by the county in which the road is located. At the time that an application for Rural Access Program funds in the construction of any county road or county roads is approved, the county shall make provisions for the maintenance of the road or roads thereafter in accordance with standards established by the Department of Transportation and shall enter into an agreement with the Department of Transportation pertaining thereto. In the event any county shall fail to maintain to the satisfaction of the Department of Transportation any county road constructed pursuant to this act, the Department of Transportation may thereafter decline to enter into further contracts pursuant to this act with the county so long as such failure on the part of the county continues.

Section 5. In addition to all other appropriations heretofore or hereafter made, there is hereby appropriated an amount equal to the funds to be allocated pursuant to this act for the fiscal year ending September 30, 1996, from the Public Road and Bridge Fund to the Department of Transportation for the implementation of the Rural Access Program.

Section 6. All laws or parts of laws which conflict with this act are hereby repealed.

Section 7. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 8. This act shall become effective October 1, 1995, upon its passage and approval by the Governor or upon its otherwise becoming law except that if House Bill 748 of the 1995 Regular Session does not become law, this act shall not be effective.

Approved July 25, 1995

Time: 3:12 P.M.

Act No. 95-397

H. 751 – Reps. McDaniel, White, Clark (J), Carter, Hawkins, Starkey, Drake, Hooper, Sanderford, Vance, Black (L), Knight (A), Burke, Hawk, Hammett

AN ACT

Relating to the disposition of surplus personal property owned by the Alabama State Department of Transportation; to provide that the Alabama Department of Transportation may promulgate administrative rules and regulations for the disposition of the surplus personal property of the department; to provide that the Department of Transportation may sell surplus personal property at fair market value to incorporated cities, counties, volunteer fire departments, boards of education, civil defense agencies, or state departments, boards, bureaus, commissions, or agencies; to provide that the Department of Transportation shall make available surplus personal property for inspection and publish a list of all surplus personal property available to sell by the Department of Transportation; to provide for the disposition of all surplus personal property owned by the Department of Transportation with the exception of property the disposal of which is otherwise provided for by law or which, by nature, is incapable of sale by auction or bid shall be let by free and open competitive public auction or sealed bids; to provide for advertisement of the auction; to provide for certain rules and regulations concerning bidding; to provide for the method of payment for the surplus personal property sold; to provide for the disposition of the proceeds of the sales of surplus personal property; to provide that no officer or employee of the state or any of its departments, boards, commissions, institutions, corporations, or agencies shall act as an agent for any bidder; and to provide for an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) Notwithstanding the provisions of Section 41-16-120 to 41-16-125, inclusive, Code of Alabama 1975, the Alabama Department of Transportation shall be responsible for the distribution, transfer, or disposal of all surplus personal property owned by the department.

(b) The Department of Transportation may promulgate the administrative rules and regulations as deemed necessary to carry out this act, including, but not limited to, rules and regulations relating to all of the following:

(1) Promotion of surplus personal property.

(2) Shipment of surplus personal property.

(3) Storage of surplus personal property.

(4) Length of retention of surplus personal property.

(5) Public auction of surplus personal property.

(6) Other rules and regulations as may be necessary.

(c) The Department of Transportation may sell surplus personal property at fair market value, as established by the Department of Transportation, and set out its published rules to incorporated cities, counties, volunteer fire departments, boards of education, civil defense agencies and state departments, boards, bureaus, commissions, or agencies. Payment for purchases by any of the aforementioned entities shall be made within 30 days after the purchase. If payment is not made within 30 days after a purchase, then the purchase shall be declared void and in default, and the property shall be returned immediately by the defaulting purchaser to the Department of Transportation.

(d) Notwithstanding the foregoing, the governing body of any municipality or county shall be given preference on the disposal of all surplus motor vehicles owned by the Department of Transportation except those motor vehicles sold to other state agencies.

(e) Municipalities and counties shall notify the Department of Transportation, in writing, of the type motor vehicle needed. A list shall be maintained by the Department of Transportation of the needs on a first-come, first-served basis and shall be used to notify the municipalities or counties when needed vehicles become available. Any municipality or county so notified shall have seven work days in which to reply to the notice and accept or refuse the available vehicle.

Section 2. (a) Surplus personal property shall be made available at such times and places as determined to be appropriate by the Department of Transportation for inspection and acquisition by the agencies determined to be eligible for the acquisition under criteria developed and published by the Department of Transportation.

(b) The Department of Transportation shall periodically publish a list of all surplus personal property held by it at the time of the publication.

(c) The published list shall be made available to all state departments, boards, bureaus, commissions, institutions, corporations, or agencies.

(d) The published list shall also be made available to all eligible counties, cities, boards of education, civil defense agencies, and volunteer fire departments.

(e) The Department of Transportation shall determine the manner in which the list of surplus personal property shall be published.

Section 3. (a) This section shall apply only to the property which has been held by the Department of Transportation for a period of not less than 60 days from the date the property is first published in the list of surplus personal property, as set out in subsection (b) of Section 2 and not purchased by any agency as set out in subsection (c) of Section 1.

(b) All contracts made by, or on behalf of, the Department of Transportation for the sale or disposal of tangible personal property owned by the Department of Transportation, other than types of property, the disposal of which is otherwise provided for by law, or which, by nature, are incapable of sale by auction or bid, shall be let by free and open competitive public auction or sealed bids.

(c) Every proposal to make a sale covered by this section shall be advertised for at least two weeks in advance of the date fixed for receiving bids. The advertisement shall appear at least once a week for two consecutive weeks in a newspaper of general circulation in the county where the sale shall be consumated, and a copy of the proposal shall simultaneously be posted on a readily accessible public bulletin board at the main office of the Department of Transportation. Advertisements for bids shall state the item or items to be sold, by class and description, where the property is located and the dates, time, and place the property may be inspected. The advertisements shall further state the date, time, and place of auction or opening of sealed bids, and no bid shall be received at any time after the time advertised. The bids shall be publicly taken or opened, in case of sealed bids, by the Department of Transportation and all bidders shall be entitled to be present in person or by representative. The award of the contract shall be made to the successful bidder within 72 hours after taking of the bids. The bid of the successful bidder so marked, as well as the bids of the unsuccessful bidders, in the case of sealed bids, shall be placed on file open to public inspection and shall become matters of public record. If a successful bidder shall fail to accept award of a contract, then he or she shall be prohibited from bidding at any sale held by the Department of Transportation for a period of 12 months following the failure to accept.

(d) The Department of Transportation may sell all items by lot or by individual item, whichever method, in the opinion of the Director of the Department of Transportation would bring the

highest return for the items so advertised. In the event all bids received are less than the estimated market value of the property, the Department of Transportation shall reject all bids and readvertise and rebid.

(e) Nothing in this act shall be construed to prevent the Department of Transportation from contracting with the highest bidder for any type of property to sell to that bidder all of that type of property at his or her bid price during the same fiscal year if such an arrangement was included in the initial request for bids.

(f) All property advertised under this section shall be available for inspection at a location designated in the advertisement during the normal state office hours for at least 48 hours prior to the sale.

(g) All property sold under this section shall be paid for by the purchaser or his or her representative by cashier's check, bank draft, certified check, United States currency, or notarized bank letter stating that the holder may purchase surplus personal property and also stating a maximum amount, at the time of acceptance of bid and award of contract, and the removal shall be not later than seven days after the awarding of the contract, except that the time limit of seven days shall not be applicable to sales of standing timber.

(h) All proceeds from sales made under this section shall be paid into the State Treasury to the credit of the Department of Transportation.

(i) No officer or employee of the State of Alabama or any of its departments, boards, bureaus, commissions, institutions, corporations, or agencies shall act as agent for any bidder. Notwithstanding the foregoing, the officers or employees shall not be excluded from bidding on or purchasing state property at public sale of sealed bid.

Section 4. All laws or parts of laws which conflict with this act are repealed.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved July 25, 1995

Time: 3:13 P.M.